

MOTION BY SUPERVISOR ZEV YAROSLAVSKY

December 20, 2011

As a result of the recent adoption of Assembly Bill 436 (AB 436), effective January 1, 2012, the State of California's Department of Industrial Relations (DIR) has created a Compliance Monitoring Unit (CMU) to monitor and enforce prevailing wage requirements on certain public works projects awarded by public agencies, including the County. With regard to public works contracts that are paid for by State-issued bonds or that use specified procurement methods, in particular design-build, AB 436 provides that the County and other public agencies are subject to the CMU's monitoring and enforcement of prevailing wage requirements. In turn, the public agencies are required to pay the DIR a compliance monitoring fee on a per-project basis for its monitoring activities. However, in lieu of using the CMU and having to pay the DIR the requisite fees, an awarding agency may, with DIR approval, operate its own labor compliance program (LCP), in accordance with State labor regulations, for design-build projects and construction projects paid for by State-issued bonds. Approval of this motion will also allow the Chief Executive Office and the Department of Public Works to implement such LCP once approved by the DIR.

Contracts involving public works projects paid for by State-issued bond funds or procured via a design-build delivery mechanism, which are awarded on or after

MOTION

MOLINA	_____
RIDLEY-THOMAS	_____
KNABE	_____
ANTONOVICH	_____
YAROSLAVSKY	_____

January 1, 2012, will be subject to the new CMU requirements. Contracts awarded prior to that date will not be subject to the new CMU requirements, but rather will be subject to the previously applicable rules. With regard to projects subject to the new CMU requirements, a public agency must pay a fee consisting of 1/4 of 1 percent of the total project costs to cover the DIR's costs of labor compliance on these projects. Alternatively, a public agency may be exempt from this payment requirement if the agency has implemented an LCP for such projects, which LCP has been previously approved by the DIR and is directly operated and administered by the public agency.

I, THEREFORE, MOVE that the Board of Supervisors direct the Chief Executive Officer to:

1. Submit the requisite application to the DIR for approval of the County's proposed LCP in a form substantially similar to the attached.
2. Upon DIR approval of the County's proposed LCP, implement such LCP.
3. On a going-forward basis, make any amendments to the County's LCP, as required.

MCC s:\Motion\Labor Compliance Program

Labor Compliance Program

For

Los Angeles County Department of Public Works



Dated: March 4, 2008
Updated September 1, 2011
Updated December 14, 2011

(DRAFT)

LOS ANGELES COUNTY DEPARTMENT OF PUBLIC WORKS

LABOR COMPLIANCE PROGRAM
IMPLEMENTATION PLAN & OPERATIONAL MANUAL

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INTRODUCTION

Los Angeles County Department of Public Works (LACDPW) also known as the 'Agency', institutes this Labor Compliance Program for the purpose of implementing its policy relative to the labor compliance provisions of State-and Federally-funded public works contracts.

This program is applicable to all public works projects which are funded under Proposition 50, the Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002, which was approved by the California voters on November 5, 2002.

Proposition 50, Senate 278 (SB278) requires that public agencies choosing to use funds from Proposition 50 to initiate, develop, and enforce a labor compliance program pursuant to Section 1771.8 of the California Labor Code.

California Labor Code Section 1770, et seq., requires that contractors on public works projects pay their workers based on the prevailing wage rates which are established and issued by the Department of Industrial Relations, Division of Labor Statistics and Research.

California Labor Code Section 1776 requires contractors to keep accurate payroll records of trades workers on all public works projects and to submit copies of certified payroll records upon request.

California Labor Code Section 1777.5 requires contractors to employ registered apprentices on public works projects.

California Code of Regulations Section 16425 specifies the applicable dates for the enforcement of Labor Compliance Programs on projects subject to Labor Code Section 1771.5 and further defines contracts subject to Labor Compliance Program jurisdiction as well as conditions under which limited exemptions, approval, revocation, voluntary termination for labor Compliance Programs shall transpire.

In establishing this LCP, LACDPW adheres to the statutory requirements as enunciated in Section 1771.5(b) of the Labor Code. Further, it is the intent of LACDPW to actively enforce this LCP by monitoring active construction sites for the payment of prevailing wage rates, and by requiring contractors and subcontractors having workers on public works sites to submit copies of certified payroll records demonstrating their compliance with the payment of prevailing wage rates.

Should applicable sections of the Labor Code or Title 8 of the California Code of Regulations undergo alteration, amendment, or deletion, LACDPW will modify the affected portions of this program accordingly.

This labor compliance program ("LCP") contains the labor compliance standards required by State and Federal laws, regulations, and directives, as well as LACDPW policies and contract provisions, which include, but are not limited to, the following:

1. Contractors' payment of applicable general prevailing wage rates.
2. Contractors' employment of properly registered apprentices.
3. Contractors' providing certified payroll records upon request but not less than weekly.
4. Program's monitoring LACDPW construction sites for the verification of proper payments of prevailing wage rates and work classification.
5. Program's conducting pre-job conferences with contractors/subcontractors.
6. Program's withholding contract payments and imposing penalties for noncompliance.
7. Program's preparation and submittal of annual reports.

Ron Beal, the Labor Compliance Officer (“LCO”) and Mike Semon, the Labor Compliance Officer (“LCO”) are the representatives for enforcement of the LCP. The LCO will be responsible for the implementation and enforcement of the LCP and will utilize trained staff and staff of another approved 3rd party LCP consultant to support their efforts as necessary to meet the requirements of this LCP.

SECTION I

PUBLIC WORKS SUBJECT TO PREVAILING WAGE LAWS

State prevailing wage rates apply to all public works contracts as set forth in Labor Code Sections 1720 *et seq.*, and include, but are not limited to, such types of work as construction, alteration, demolition, repair, or maintenance work. The Division of Labor Statistics and Research (DLSR) predetermines the appropriate prevailing wage rates for particular construction trades and crafts by county.

A. Types of Contracts to Which Prevailing Wage Requirements Apply

As provided in Labor Code section 1771.7(a) and (b), an awarding body that chooses to use funds derived from Proposition 50, the Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002, which was approved by the California voters on November 5, 2002, shall initiate and enforce a Labor Compliance Program as described in subdivision (b) of section 1771.5 of the Labor Code and as amended by AB 436 with respect to public works projects. Accordingly, upon approval by the Director of the Department of Industrial Relations, this awarding body LCP shall apply to public works using funds derived from those Bond Acts and other projects requiring a labor compliance program and also for those projects requiring a labor compliance program such as design-build projects.

B. Applicable Dates for Enforcement of the LCP

The applicable dates for enforcement of awarding body Labor Compliance Programs is established by Section 16425 of the California Code of Regulations. Contracts are not subject to the jurisdiction of the Labor Compliance Program until after the program has received initial or final approval.

SECTION II
COMPETITIVE BIDDING ON LACDPW PUBLIC
WORKS CONTRACTS

The Awarding Body publicly advertises upcoming public works projects to be awarded according to a competitive bidding process. All LACDPW bid advertisements (or bid invitations) and public works contracts shall contain appropriate language concerning the requirements of the Labor Code.

SECTION III
PRE CONSTRUCTION MEETING

After the Awarding Body awards the public works contract, and prior to the commencement of the work, a mandatory Pre Construction meeting (or Pre-Job conference) shall be conducted by the LCO with the contractor and those subcontractors listed in its bid documents.

At that meeting, the LCO will discuss the federal and state labor law requirements applicable to the contract, including prevailing wage requirements, the respective record keeping responsibilities, the requirement for the submittal of certified payroll records to the Awarding Body, and the prohibition against discrimination in employment.

The LCO will provide the contractor and each subcontractor with a Checklist of Labor Law Requirements (presented as Attachment A to this document) and will discuss in detail the following checklist items:

1. The contractor's duty to pay prevailing wages (Labor Code Section 1770 *et seq.*);
2. The contractor's duty to employ registered apprentices on public works projects (Labor Code Section 1777.5);
3. The penalties for failure to pay prevailing wages and to employ apprentices, including forfeitures and debarment (Labor Code Sections 1775, 1777.7, and 1813);
4. The requirement to maintain and submit copies of certified payroll records to the Awarding Body, on a weekly basis, as required (Labor Code Section 1776), and penalties for failure to do so (Labor Code Section 1776(g)); The requirement includes and applies to all subcontractors performing work on LACDPW projects even if their portion of the work is less than one half of one percent of the total amount of the contract.
5. The prohibition against employment discrimination (Labor Code Sections 1735 and 1777.6; the Government Code; and Title VII of the Civil Rights Act of 1964, as amended);
6. The prohibition against taking or receiving a portion of an employee's wages (Labor Code Section 1778) (kickback);
7. The prohibition against accepting fees for registering any person for public works (Labor Code Section 1779) or for filing work orders on public works (Labor Code Section 1780);
8. The requirement to list all subcontractors that are performing one-half of one percent of the total amount of the contract (Public Contract Code Section 4100 *et seq.*);
9. The requirement to be properly licensed and to require all subcontractors to be properly licensed, and the penalty for employing workers while unlicensed (Labor Code Section 1021 and under California Contractors License Law. Also, see Business and Professions Code Section 7000, *et seq.*;

10. The prohibition against unfair competition (Business and Professions Code Sections 17200-17208);
11. The requirement that the contractors and subcontractor be properly insured for Workers' Compensation (Labor Code Section 1861);
12. The requirement that contractors and subcontractors are required to abide by the Occupational, Safety and Health laws and regulations that apply to the particular construction project.
13. The prohibition against contractors and subcontractors from hiring undocumented workers and requires contractors and subcontractors to secure proof of eligibility/citizenship from all workers.
14. The requirement that Contractors and subcontractors must provide itemized wage statements to employees under Labor Code Section 226.

The contractors and subcontractors present at the Pre Construction will be given the opportunity to ask questions of the LCO relative to the items contained in the Labor Law Requirements Checklist. The checklist will then be signed by the contractor's representative and the Awarding Body's LCO, **a representative of each subcontractor**, and the LCO.

At the Pre Construction meeting, the LCO will provide the contractor with a copy of LACDPW' LCP package which includes: a copy of the approved LCP, the checklist of Labor Law Requirements, applicable Prevailing Wage Rate Determinations, blank certified payroll record forms, fringe benefit statements, State apprenticeship requirements, and a copy of the Labor Code relating to Public Works and Public Agencies (Part 7, Chapter 1, Sections 1720-1861).

It will be the contractor's responsibility to provide copies of the LCP package to all listed subcontractors and to any substituted subcontractors.

SECTION IV

REVIEW OF CERTIFIED PAYROLL RECORDS

A. Certified Payroll Records Required

The contractor and each subcontractor shall maintain payrolls and basic records (timecards, canceled checks, cash receipts, trust fund forms, accounting ledgers, tax forms, superintendent and foreman daily logs, etc.) during the course of the work and shall preserve them for a period of three (3) years thereafter for all trades workers working on LACDPW projects which are subject to the LCP. Such records shall include the name, address, and social security number of each worker, his or her classification, a general description of the work each employee performed each day, the rate of pay (including rates of contributions for, or costs assumed to provide fringe benefits), daily and weekly number of hours worked, and actual wages paid.

1. Submittal of Certified Payroll Records

The contractor and each subcontractor shall maintain weekly certified payroll records for submittal on a weekly basis, no later than the first Friday following the pay period covered to LACDPW LCO as required. The contractor shall be responsible for the weekly submittal of payroll records, no later than the first Friday following the pay period covered for all its subcontractors. All certified payroll records shall be accompanied by a statement of compliance signed by the contractor or each subcontractor indicating that the payroll

records are correct and complete, that the wage rates contained therein are not less than those determined by the Director of the Department of Industrial Relations, and that the classifications set forth for each employee conform with the work performed.

Time cards, front and back copies of cancelled checks, daily logs, employee sign-in sheets and/or any other record maintained for the purposes of reporting payroll may be requested by the Labor Compliance Officer at any time and shall be provided within 10 days following the receipt of the request.

2. Review Certified Payroll Records

Certified payroll records furnished by contractors and subcontractors shall be regularly and timely reviewed, but no later than 30 days after receipt, by the LACDPW to monitor payment of prevailing wages.

- A. "Review" for this purpose shall be defined as inspection of the records furnished to determine if:
 - (1) All appropriate data elements identified in Labor Code Section 1776(a) has been reported;
 - (2) Certification forms have been completed and signed in compliance with Labor Code Section 1776(b); and
 - (3) Correct prevailing wage rates have been reported as paid for each classification of labor listed thereon, with confirmation of payment in the manner and to the extent described below.
- B. "Confirmation" of payroll records furnished by contractors and subcontractors shall be defined as an independent corroboration of reported prevailing wage payments. Confirmation may be accomplished through:
 - (1) Worker Interviews, examination of paychecks or paycheck stubs, direct confirmation of payments from third party recipients of "Employer Payments" (as defined at section 16000 of Title 8 of the California Code of Regulations), or any other reasonable method of corroboration.
 - (2) For each month in which a contractor or subcontractor reports having workers employed on the public work, confirmation of furnished payroll records shall be undertaken randomly for at least one worker for at least one weekly period within that month.
 - (3) Confirmation shall also be undertaken whenever complaints from workers or other interested persons or other circumstances or information reasonably suggest to the Awarding Body that payroll records furnished by a contractor or subcontractor are inaccurate.

3 . Audits/Investigations.

Audits/investigations may be conducted by LACDPW when deemed necessary, and shall be conducted at the request of the Labor Commissioner.

- A. An audit consists of a comparison of payroll records to the best available information as to the actual hours worked, amounts paid and classifications of workers employed on the contract. An Audit is sufficiently detailed when it enables the Labor Commissioner, if requested, to determine the amount of forfeiture under section 16437, to draw reasonable conclusions as to compliance with the requirements of the Public Works Chapter of the Labor Code, and to enable accurate computation of underpayments of wages to workers and of applicable penalties and forfeitures.

B. An Audit using the forms in Appendix B, when accompanied by a brief narrative identifying the Bid Advertisement Date of the contract for public work and summarizing the nature of the violation and the basis upon which the determination of underpayment was made, presumptively demonstrates sufficiency.

4. Complaints. Upon receipt of a written complaint alleging that a contractor or subcontractor has failed to pay prevailing wages as required by the Labor Code, the LCP shall do all of the following:

- A. Within 15 days after receipt of the complaint, send a written acknowledgment to the complaining party that the complaint has been received and identifying the name, address, and telephone number of the investigator assigned to the complaint;
- B. Within 15 days after receipt of the complaint, provide the affected contractor with the notice required under Labor Code section 1775(c) if the complaint is against a subcontractor;
- C. Notify the complaining party in writing of the resolution of the complaint within ten days after the complaint has been resolved by the LCP;
- D. Notify the complaining party in writing at least once every 30 days of the status of a complaint that has not been resolved by the LCP; and
- E. Notify the complaining party in writing at least once every 90 days of the status of a complaint that has been resolved by the LCP but remains under review or in litigation before another entity.
- F. After it is determined that an underpayment of wages occurred and an audit prepared, notification shall be provided to the contractor and affected subcontractor of an opportunity to resolve the wage deficiency prior to a determination by the Labor Commissioner pursuant to California Code of Regulations Section 16432(f).

5. Apprenticeship. The duties of a LCP with respect to apprenticeship standards are as follows:

- A. Either the Awarding Body or the LACDPW, Inc. acting on its behalf shall:
 - 1. Inform contractors and subcontractors bidding public works about apprenticeship requirements,
 - 2. send copies of awards and notices of discrepancies to the Division of Apprenticeship Standards as required under Section 1773.3 of the Labor Code, and
 - 3. Refer complaints and promptly report suspected violations of apprenticeship requirements to the Division of Apprenticeship Standards.
- B. The LCP shall be responsible for enforcing prevailing wage pay requirements for apprentices consistent with the practice of the Labor Commissioner, including
 - 1. That any contributions required pursuant to Labor Code Section 1777.5(m) are paid to the appropriate entity,
 - 2. That apprentices are paid no less than the prevailing apprentice rate,
 - 3. that workers listed and paid as apprentices on the certified payroll records are duly registered as apprentices with the Division of Apprenticeship Standards, and
 - 4. Requiring that the regular prevailing wage rate be paid (i) to any worker who is not a duly registered apprentice and (ii) for all hours in excess of the maximum ratio permitted under Labor Code Section 1777.5(g), as determined at the conclusion of the employing contractor or subcontractor's work on the public works contract.

6. Use of Electronic Reporting Forms

Certified payroll records required by Labor Code Section 1776 may be maintained and submitted electronically, subject to the following conditions:

- A. Reports must contain all of the information required by Labor Code Section 1776;
- B. Information must be organized in a manner that is similar or identical to the Department of Industrial Relations "Public Works Payroll Reporting Form" (Form A-1-131);
- C. Reports shall be in a format and use software that is readily accessible and available to Contractors, Subcontractors & the Awarding Body, LCP and the Department of Industrial Relations;
- D. Reports must be in the form of a non-modifiable image or record: and
- E. Reports must bear an electronic signature or include a copy of an original certification made on paper or printed out and submitted on paper with an original signature.
- F. No contractor or subcontractor shall be mandated to submit or receive electronic reports when it otherwise lacks the resources or capacity to do so, nor shall any contractor or subcontractor be required to purchase or use proprietary software that is not generally available to the public.

7. Full Accountability

Each individual, laborer or craftsperson working on a public works contract must appear on the payroll. The basic concept is that the employer who pays the trades worker must report that individual on its payroll. This includes individuals working as apprentices in an apprenticeable trade. Owner-operators are to be reported by the contractor employing them, rental equipment operators are to be reported by the rental company paying the workers' wages.

Sole owners and partners who work on a contract must also submit a certified payroll record listing the days and hours worked, and the trade classification descriptive of the work actually done.

The contractor shall provide the records required under this section to the LACDPW within five (5) days of each payday, and available for inspection by the Department of Industrial Relations, and shall permit representatives of each to interview tradespersons during working hours on the project site.

8. Responsibility for Subcontractors

The contractor shall be responsible for ensuring adherence to labor standards provisions by its subcontractors. Moreover, the prime contractor is responsible for Labor Code violations of its subcontractors in accordance with Labor Code section 1775.

9. Payment to Employees

Employees must be paid unconditionally, the full amounts that are due and payable for the period covered by the particular payday. Thus, an employer must establish a fixed workweek (Sunday through Saturday, for example) and an established payday (such as every Friday or the preceding day should such payday fall on a holiday). On each and every payday, each worker must be paid all sums due as of the end of the preceding workweek and must be provided with an itemized wage statement.

If an individual is called a subcontractor, whereas, in fact, he/she is merely a journey level mechanic supplying only his/her labor, such an individual would not be deemed a bona fide subcontractor and must be reported on the payroll of the prime contractor as a trades worker. Moreover, any person who does not hold a valid contractor's license cannot be a subcontractor, and anyone hired by that person is the worker or employee of the general contractor for purposes of prevailing wage requirements, certified payroll reporting and workers' compensation laws.

The worker's rate for straight time hours must equal or exceed the rate specified in the contract by reference to the "Prevailing Wage Determinations" for the class of work actually performed. Any work performed on Saturday, Sunday, and/or on a holiday, or portion thereof, must be paid the prevailing rate established for those days regardless of the fixed workweek. The hourly rate for hours worked in excess of 8 hours in a day and 40 hours in a workweek shall be premium pay. All work performed on Saturday, Sunday and holidays shall be paid pursuant to the Prevailing Wage determination.

10. A representative of the LCP shall conduct weekly in-person inspections at the site or sites at which the work is being performed. Pursuant to California Code of Regulations Section 16432 (d) weekly on-site visits shall be undertaken during each week that workers are present at the site which work is performed and shall include a visual inspection of the copy of the applicable prevailing wage determination required to be posted at the site, as well as the required Notice of Labor Compliance Program Approval posted listing a phone number to call for inquiries.

B. Apprentices

Apprentices shall be permitted to work as such only when they are registered, individually, under a bona fide apprenticeship program registered and approved by the State Division of Apprenticeship Standards. The allowable ratio of apprentices to journeypersons in any craft/classification shall not be greater than the ratio permitted to the contractor as to its entire workforce under the registered program.

Any worker listed on a payroll at an apprentice wage rate who is not registered shall be paid the journey level wage rate determined by the Department of Industrial Relations for the classification of the work he/she actually performed. Pre-apprentice trainees, trainees in non-apprenticeable crafts, and others who are not duly registered will not be permitted on public works projects unless they are paid full prevailing wage rates as journeypersons.

Compliance with California Labor Code Section 1777.5 requires all public works contractors and subcontractors to:

1. Submit contract award information to the apprenticeship committee for each apprenticeable craft or trade in the area of the Project;
2. Request dispatch of apprentices from the applicable Apprenticeship Program(s) and employ apprentices on public works projects in a ratio to journeypersons which in no case shall be less than one (1) hour of apprentice work to each five (5) hours of journeyperson work; and
3. Contribute to the applicable Apprenticeship Program(s) or the California Apprenticeship Council in the amount identified in the prevailing wage rate publication for journeypersons and apprentices. If payments are not made to an Apprenticeship Program, they shall be made to the California Apprenticeship Council, Post Office Box 420603, San Francisco, CA 94142.

If the contractor is registered to train apprentices, it shall furnish written evidence of the registration (i.e., Apprenticeship Agreement or Statement of Registration) of its training program and apprentices, as well as the ratios allowed and the wage rates required to be paid there under for the area of construction, prior to using any apprentices in the contract work. It should be noted that a prior approval for a separate project does not confirm approval to train on any project. The contractor/subcontractor must check with the applicable Joint Apprenticeship Committee to verify status.

C. Audit of Certified Payroll Records

Audits shall be conducted by the LCO, and shall also be conducted at the request of the Labor Commissioner to determine whether all tradespersons on project sites have been paid according to the prevailing wage rates.

The audit record form (presented as Attachment B) demonstrates the sufficient detail that is necessary to verify compliance with Labor Code requirements.

1. An audit consists of a comparison of payroll records to the best available information as to the actual hours worked, amounts paid and classifications of workers employed on the contract. An Audit is sufficiently detailed when it enables the Labor Commissioner, if requested, to determine the amount of forfeiture under section 16437, to draw reasonable conclusions as to compliance with the requirements of the Public Works Chapter of the Labor Code, and to enable accurate computation of underpayments of wages to workers and of applicable penalties and forfeitures.
2. An Audit using the forms in Appendix B, when accompanied by a brief narrative identifying the Bid Advertisement Date of the contract for public work and summarizing the nature of the violation and the basis upon which the determination of underpayment was made, presumptively demonstrates sufficiency.
After it is determined that an underpayment of wages occurred and an audit prepared, notification shall be provided to the contractor and affected subcontractor of an opportunity to resolve the wage deficiency prior to a determination by the Labor Commissioner pursuant to California Code of Regulations Section 16432(f).
3. Apprenticeship. The duties of a LCP with respect to apprenticeship standards are as follows:
 - A. Either the Awarding Body or the LCP acting on its behalf shall:
 1. Inform contractors and subcontractors bidding public works about apprenticeship requirements,
 2. send copies of awards and notices of discrepancies to the Division of Apprenticeship Standards as required under Section 1773.3 of the Labor Code, and
 3. Refer complaints and promptly report suspected violations of apprenticeship requirements to the Division of Apprenticeship Standards.
 - B. The LCP shall be responsible for enforcing prevailing wage pay requirements for apprentices consistent with the practice of the Labor Commissioner, including
 1. That any contributions required pursuant to Labor Code Section 1777.5(m) are paid to the appropriate entity,
 2. That apprentices are paid no less than the prevailing apprentice rate,
 3. that workers listed and paid as apprentices on the certified payroll records are duly registered as apprentices with the Division of Apprenticeship Standards, and

4. Requiring that the regular prevailing wage rate be paid (i) to any worker who is not a duly registered apprentice and (ii) for all hours in excess of the maximum ratio permitted under Labor Code Section 1777.5(g), as determined at the conclusion of the employing contractor or subcontractor's work on the public works contract.

SECTION V

REPORTING OF WILLFUL VIOLATIONS TO THE LABOR COMMISSIONER

If an investigation reveals that a willful violation of the Labor Code has occurred, the LCO will make a written report to the Labor Commissioner which shall include: (1) an audit consisting of a comparison of payroll records to the best available information as to the actual hours worked, (2) the classification of workers employed on the public works contract. Six (6) types of willful violations are reported:

- A. Failure to Comply with Prevailing Wage Rate Requirements Failure to comply with prevailing wage rate requirements (as set forth in the Labor Code and LACDPW contracts) is determined a willful violation whenever less than the stipulated basic hourly rate is paid to tradespersons, or if overtime, holiday rates, fringe benefits, and/or employer payments are paid at a rate less than stipulated.
- B. Falsification of Payroll Records, Misclassification of Work, and/or Failure to Accurately Report Hours of Work Falsification of payroll records and failure to accurately report hours of work is characterized by deliberate underreporting of hours of work; underreporting the headcount; stating that the proper prevailing wage rate was paid when, in fact, it was not; clearly misclassifying the work performed by the worker; and any other deliberate and/or willful act which results in the falsification or inaccurate reporting of payroll records.
- C. Failure to Submit Certified Payroll Records The contractors and subcontractors shall have ten (10) days upon notification by the LCO in which to comply with the requirement of submittal of weekly and/or to correct inaccuracies or omissions that have been detected.
- D. For Failure to Pay Fringe Benefits Fringe benefits are defined as the amounts stipulated for employer payments or trust fund contributions and are determined to be part of the required prevailing wage rate. Failure to pay or provide fringe benefits and/or make trust fund contributions on a timely basis is equivalent to payment of less than the stipulated wage rate and shall be reported to the Labor Commissioner as a willful violation, upon completion of an investigation and audit.
- E. Failure to Pay the Correct Apprentice Rates and/or Misclassification of Workers as Apprentices Failure to pay the correct apprentice rate or classifying a worker as an apprentice when not properly registered is equivalent to payment of less than the stipulated wage rate and shall be reported to the Labor Commissioner, as a willful violation, upon completion of an investigation and audit.
- F. For the taking of Kickbacks Accepting or extracting kickbacks from employee wages under Labor Code Section 1778 constitutes a felony and may be prosecuted by the appropriate enforcement agency.

A. Duties of the LCP

The LACDPW having an approved LCP, has a duty to the Director of the Department of Industrial Relations to enforce Labor Code section 1720 et seq. in a manner consistent with the practice of the Division of Labor Standards Enforcement (DLSE) and as set forth in regulations found at 8 CCR section 16000 et seq., and in accordance with Important Decisions issued by the Director and which are available at the Department of Industrial Relations Home Page (www.dir.ca.gov) and links to that page. The Awarding Body shall undertake enforcement action in furtherance of its responsibilities as follows:

1. Review Certified Payroll Records. Certified payroll records furnished by contractors and subcontractors shall be regularly and timely reviewed by the Awarding Body to monitor payment of prevailing wages.
2. Audits/Investigations. Audits/investigations may be conducted by the Awarding Body when deemed necessary, and shall be conducted at the request of the Labor Commissioner.
 - a. An audit consists of a comparison of payroll records to the best available information as to the actual hours worked and classifications of workers employed on the contract. Records should be made available to show that the audits conducted are sufficiently detailed to verify compliance with the prevailing wage requirements of the Labor Code.
 - b. An audit record in the form set out in Attachment B, and as provided in 8 CCR section 16432, complies with the Labor Code requirement.

B. Withholding Contract Payments for Violations of the Requirements of Chapter 1 of Part 7 of Division 2 of the Labor Code.

Following Notification by LACDPW the Awarding Body shall withhold contract payments when payroll records are delinquent or inadequate or when, after an investigation, it is established that underpayment of the prevailing wage has occurred. The authority of an approved LCP to withhold contract payments is found in Labor Code section 1771.6 and is also subject to provisions contained at 8 CCR section 16435 et seq. LACDPW will refer to the Director's ongoing advisory service of web-posted public works coverage determinations as a source of information and guidance in making enforcement decisions. The withholding of contract payments when payroll records are delinquent or inadequate is required by Labor Code Section 1771.5(b)(5), and does not require the prior approval of the Labor Commissioner. The Awarding Body on behalf of LACDPW shall only withhold those payments due or estimated to be due to the contractor or subcontractor whose payroll records are delinquent or inadequate, plus any additional amount that the the Labor Compliance Program has reasonable cause to believe may be needed to cover a back wage and penalty assessment against the contractor or subcontractor whose payroll records are delinquent or inadequate; *provided that* a contractor shall be required in turn to cease all payments to a subcontractor whose payroll records are delinquent or inadequate until the Labor Compliance Program provides notice that the subcontractor has cured the delinquency or deficiency.

1. When contract payments are withheld under this section, the Awarding Body Labor Compliance Program shall provide the contractor and subcontractor, if applicable, with immediate written notice that includes all of the following:
 - a. A statement that payments are being withheld due to delinquent or adequate payroll records, and that identifies what records are missing or states why records that have been submitted are deemed inadequate;
 - i. The specific amount being withheld; and

- ii. Information regarding the contractor's or subcontractor's right to request an expedited hearing to review the withholding of contract payments under Labor Code Section 1742, limited to the issue of whether the records are delinquent or inadequate or the Labor Compliance Program has exceeded its authority under this section.
- b. No contract payments shall be withheld solely on the basis of delinquent or inadequate payroll records after the required records have been produced.
 - i. In addition to withholding contract payments based on delinquent or inadequate payroll records, penalties shall be assessed under Labor Code Section 1776(g) for failure to timely comply with a written request for certified payroll records. The LCP will obtain approval of the Labor Commissioner for the assessment of penalties under Labor Code Section 1776(g).
- 2. As explained more fully below, the LCP will first obtain approval from the Labor Commissioner of the amounts of unpaid penalty and wage money assessed by the Awarding Body ("forfeitures") for violations of the prevailing wage laws where those amounts total \$1,000.00 or more. Thereafter, the Awarding Body will provide notice of withholding of contract payments to the contractor and other affected parties (a subcontractor and bonding company, if applicable) as required by law. The procedures to be followed by the Awarding Body in obtaining approval of a forfeiture from the Labor Commissioner and providing notice of withholding to the contractor and other affected parties will be consistent with the code sections and regulations cited above, and definitions included therein (see Appendix A – "Definitions" – attached hereto), and are summarized below in Steps 1 and Step 2.
- 3. If the aggregate amount of forfeitures assessed as to a contractor or subcontractor is less than \$1000.00, the forfeitures shall be deemed approved by the Labor Commissioner upon service and the Labor Commissioner's receipt of copies of the following:
 - a. The Notice of Withholding of Contract Payments authorized by Labor Code Section 1771.6(a);
 - b. An Audit as defined in 8 CCR section 16432(e);
 - c. A brief narrative identifying the Bid Advertisement Date of the contract for public work and summarizing the nature of the violation, the basis of the underpayment, and the factors considered in determining the assessment of penalties, if any, under Labor Code Section 1775.
- 4. Where the violation is by a subcontractor, the general contractor shall be notified of the nature of the violation and reference made to its rights under Labor Code Section 1729.

5. Step No. 1: Approval of Amount of Forfeiture by the Labor Commissioner

- a. The LCP shall request approval of the amount of a proposed forfeiture by filing a report with the Labor Commissioner which contains at least the following information:
 - 1. Whether the public work has been accepted by the Awarding Body and whether a valid notice of completion

- has been filed, the dates if any when those events occurred, and the amount of funds being held in retention by the Awarding Body;
- 2. Any other deadline which if missed would impede collection;
- 3. Evidence of violation, in narrative form;
- 4. Evidence of violation obtained under section 16432 of these regulations and a copy of the Audit prepared in accordance with section 16432(e) setting forth the amounts of unpaid wages and applicable penalties;

Note: A report requesting approval of the amount of a proposed forfeiture only assessed for delinquent or inadequate payroll records pursuant to Labor Code section 1776 (g) need only refer to evidence that the contractor failed to provide certified payroll records or basic payroll records (see, section IV A. 1. above) within ten (10) days of receipt of the request, and the amount of the proposed forfeiture for delinquent or inadequate payroll records calculated at twenty-five dollars (\$25) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated.

- 6. Evidence that the contractor and subcontractor were given the opportunity to explain why there was no violation, or whether the failure to pay the correct rate of wages was a good faith mistake and, if so, whether the error was promptly and voluntarily corrected upon being brought to the attention of the contractor and subcontractor;
- 7. Where the LCP seeks not only amounts of wages but also a penalty under Labor Code section 1775 as part of the forfeiture, and the contractor or subcontractor has unsuccessfully contended that the cause of the violation was a good faith mistake, a short statement should recommend a penalty amount (computed at not more than fifty dollars (\$50) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rates), and reasons therefore; if the amount of wages sought involves overtime, penalties under Labor Code section 1813 should be calculated as follows: twenty-five dollars (\$25) for each calendar day during which each worker was required or permitted to work more than eight hours in any one calendar day and 40 hours in any one calendar week.
- 8. Where the LCP seeks only wages, or a penalty under Labor Code Section 1775 of less than fifty dollars (\$50) per calendar day as part of the forfeiture, and the contractor has successfully contended that the cause of the violation was a good faith mistake, a short statement should recommend a penalty amount, and reasons therefore, pursuant to Labor Code section 1775; if the amount of wages sought involves overtime, penalties under Labor Code Section 1813 should be calculated as follows: twenty-five dollars (\$25) for each calendar day during which each worker was required or permitted to work more than eight hours in any one calendar day and 40 hours in any one calendar week;
- 9. Whether the contractor or subcontractor has a prior record of failing to meet its prevailing wage obligations
- 10. Whether the LCP has been granted approval only on an interim or temporary basis under 8 CCR sections 16425 or 16426 or whether it has been granted extended approval under 8 CCR section 16427.
 - a. The report should be served on the Labor Commissioner as soon as practicable after the violation has been discovered, and not less than thirty days before final payment, but in no event later than

320 days after the Awarding Body's acceptance of the public work or 320 days after the filing of a valid Notice of Completion in the Office of the County Recorder, whichever occurs last.

- b. A copy of the proposed forfeiture and the report shall be served on the contractor and subcontractor, if applicable, at the same time as it is sent to the Labor Commissioner. The LCP may exclude from the documents served on the contractor and subcontractor copies of documents secured from the contractor or subcontractor during an audit, investigation, or meeting, if those are clearly referenced in the report. The report shall be accompanied by the Notice of Deadlines form attached hereto as Attachment C.
- c. The Labor Commissioner shall affirm, reject, or modify the forfeiture in whole or in part as to penalty and/or wages due.
- d. The Labor Commissioner's determination of forfeiture is effective on one of the two following dates:
 - 1. For all programs other than those having extended authority under 8 CCR section 16427, on the date the Labor Commissioner serves by first class mail, on the political subdivision and on the contractor, an endorsed copy of the proposed forfeiture, or a newly drafted forfeiture statement which sets out the amount of forfeiture approved. Service on the contractor is effective if made on the last address supplied by the contractor in the record. The Labor Commissioner's approval, modification or disapproval of the proposed forfeiture shall be served within 30 days of receipt of the proposed forfeiture.
 - 2. For programs with extended approval under 8 CCR section 16427, approval is effective 20 days after the requested forfeitures are served upon the Labor Commissioner, unless the Labor Commissioner serves a notice upon the parties, within that time period, that this forfeiture request is subject to further review. For such programs, a notice that approval will follow such a procedure will be included in the transmittal of the forfeiture request to the contractor. If the Labor Commissioner notifies the parties of a decision to undertake further review, the Labor Commissioner's final approval, modification or disapproval of the proposed forfeiture shall be served within 30 days of the date of notice of further review.

6. Step No. 2 Notice of Withholding; Review Thereof; and Settlement Authority

a. Notice of Withholding of Contract Payments

After determination of the amount of forfeiture by the Labor Commissioner, the LCP shall provide notice of withholding of contract payments to the contractor and subcontractor, if applicable. The notice shall be in writing and shall describe the nature of the violation and the amount of wages, penalties, and forfeitures withheld. Service of the notice shall be completed pursuant to Section 1013 of the Code of Civil Procedure by first-class and certified mail to the contractor and

subcontractor, if applicable. The notice shall advise the contractor and subcontractor, if applicable, of the procedure for obtaining review of the withholding of contract payments. The awarding body shall also serve a copy of the notice by certified mail to any bonding company issuing a bond that secures the payment of prevailing wages covered by the notice and to any surety on a bond, if their identities are known to the LCP.

A copy of the Notice of Withholding of Contract Payments (NWCP) to be utilized by the Awarding Body is found as Attachment D to this document.

b. Review of NWCP

1. An affected contractor or subcontractor may obtain review of a NWCP under this chapter by transmitting a written request for a review hearing to the office of the LCP that appears on the NWCP within 60 days after service of the NWCP. If no hearing is requested within 60 days after the service of the NWCP, the NWCP shall become final.

2. Within ten days following the receipt of the request for a review hearing, the LCP shall transmit to the Office of the Director-Legal Unit the request for review and copies of the Notice of Withholding of Contract Payments, any audit summary that accompanied the notice, and a proof of service or other documents showing the name and address of any bonding company or surety that secures the payment of the wages covered by the notice.

A copy of the required Notice of Transmittal to be utilized by the LCP is found as Attachment E to this document.

3. The Awarding Body will be represented by an attorney in prevailing wage hearings conducted pursuant to Labor Code Section 1742(b) and sections 17201 – 17270 of Title 8 of the California Code of Regulations.

4. Upon receipt of a timely request, a hearing shall be commenced within 90 days before the director, who shall appoint an impartial hearing officer possessing the qualifications of an administrative law judge pursuant to subdivision (b) of Section 11502 of the Government Code. The appointed hearing officer shall be an employee of the department, but shall not be an employee of the Division of Labor Standards Enforcement. The contractor or subcontractor shall be provided an opportunity to review evidence to be utilized by the LCP at the hearing within 20 days of the receipt by the LCP of the written request for a hearing. Any evidence obtained by the LCP subsequent to the 20-day cutoff shall be promptly disclosed to the contractor or subcontractor.

A copy of the Notice of Opportunity to Review Evidence Pursuant to Labor Code Section 1742 (b) form is found as Attachment F to this document.

5. The contractor or subcontractor shall have the burden of proving that the basis for the NWCP is incorrect. The NWCP shall be sufficiently detailed to provide fair notice to the contractor or subcontractor of the issues at the hearing. Within 45 days of the conclusion of the hearing, the director shall issue a written decision affirming, modifying, or dismissing the assessment. The decision of the director shall consist of a notice of findings, findings, and an order. This decision shall be served on all parties

pursuant to Section 1013 of the Code of Civil Procedure by first-class mail at the last known address of the party on file with the LCP. Within 15 days of the issuance of the decision, the director may reconsider or modify the decision to correct an error, except that a clerical error may be corrected at any time.

The director has adopted regulations setting forth procedures for hearings under this subdivision.

The regulations are found as Attachment B to this document.

6. An affected contractor or subcontractor may obtain review of the decision of the director by filing a petition for a writ of mandate to the appropriate superior court pursuant to Section 1094.5 of the Code of Civil Procedure within 45 days after service of the decision. If no petition for a writ of mandate is filed within 45 days after service of the decision, the order shall become final. If it is claimed in a petition for writ of mandate that the findings are not supported by the evidence, abuse of discretion is established if the court determines that the findings are not supported by substantial evidence in the light of the whole record.

7. A certified copy of a final order may be filed by the Labor Commissioner in the office of the clerk of the superior court in any county in which the affected contractor or subcontractor has property or has or had a place of business. The clerk, immediately upon the filing, shall enter judgment for the state against the person assessed in the amount shown on the certified order.

8. A judgment entered pursuant to this procedure shall bear the same rate of interest and shall have the same effect as other judgments and shall be given the same preference allowed by law on other judgments rendered for claims for taxes. The clerk shall not charge for the service performed by him or her pursuant to this section.

9. This procedure shall provide the exclusive method for review of a decision by the LCP to withhold contract payments pursuant to Section 1771.5.

Note: A release under Civil Code section 3196 may not be posted for the release of funds being withheld for violations of the prevailing wage law.

C. Settlement Authority: Except in cases where the Labor Commissioner has intervened pursuant to 8 CCR section 16439 (b), the Labor Compliance Program shall have the authority to prosecute, settle, or seek the dismissal of any Notice of Withholding of Contract Payments issued pursuant to Labor Code Section 1771.6 and any review proceeding under Labor Code Section 1742, without any further need for approval by the Labor Commissioner. Whenever a Awarding Body Labor Compliance Program settles in whole or in part or seeks and obtains the dismissal of a Notice of Withholding of Contract Payments or a review proceeding under Labor Code Section 1742, the Labor Compliance Program shall document the reasons for the settlement or request for dismissal and shall make that documentation available to the Labor Commissioner upon request.

The LCP, having an approved LCP, has a duty to the Director of the Department of Industrial Relations to enforce the requirements of Chapter 1 of Part 7 of

Division 2 of the Labor Code and Chapter 8 of Division 1 of the CCR's in a manner consistent with the practice of the Labor Commissioner. and as set forth in Subchapter 4 of Chapter 8 of Division 1 of the CCR's. It is the practice of the Labor Commissioner to refer to the Director's ongoing advisory service of web-posted public works coverage determinations, as a source of information and guidance in making enforcement decisions. These are available at the Department of Industrial Relations Home Page (www.dir.ca.gov) and the Division of Labor Statistics and Research link.

The LCP shall undertake enforcement action in furtherance of its responsibilities as follows:

1. LACDPW an approved LCP, has a duty to the Director of the Department of Industrial Relations to enforce Labor Code section 1720 *et seq.* and the procedural regulations of the Department of Industrial Relations in a manner consistent with the practice of DLSE and regulations found at Title 8, California Code Regulations, Section 16000 *et seq.*
2. If a contractor or subcontractor seeks review of a Labor Compliance Program enforcement action, pursuant to California Code of Regulations Section 16439 (b) and (c) the Labor Commissioner may intervene to represent the LACDPW, or to enforce relevant provisions of the Labor Code consistent with the practice of the Labor Commissioner, or both. Except in cases where the Labor Commissioner has intervened pursuant to subpart (b) above, the Labor Compliance Program shall have authority to prosecute, settle, or seek the dismissal of any Notice of Withholding of Contract Payments issued pursuant to Labor Code Section 1771.6 and any review proceeding under Labor Code Section 1742, without any further need for approval by the Labor Commissioner.
3. Pursuant to Labor Code Section 1742.1(b), in lieu of the payment of liquidated damages, a contractor may deposit an amount equal to back wages and penalties in an escrow account established and maintained by the Labor Commissioner.

B. Withholding Contract Payments When Payroll Records are Delinquent or Inadequate

1. "Withhold" means that LCP shall advise the Awarding Body to cease payments to the contractor. Where the violation is by a subcontractor, the contractor shall be notified of the nature of the violation and reference made to its rights under Labor Code Section 1729.

A release bond under Civil Code Section 3196 may not be posted for the release of the funds being withheld for the violation of the prevailing wage law.

2. "Contracts" except as otherwise provided by agreement, means only contracts under a single master contract, or contracts entered into as stages of a single project which may be the subject of withholding, pursuant to the Labor Code, Sections 1720, 1720.2, 1720.3, 1720.4, 1771, and 1771.5;
3. "Delinquent payroll records" means those not submitted on the basis set forth in the LCP Contract and the LCP;

4. "Inadequate payroll records" are any one of the following:
 - a. A record lacking the information required by Labor Code Section 1776;
 - b. A record which contains the required information but which is not certified, or certified by someone not an agent of the contractor or subcontractor;
 - c. A record remaining uncorrected for one payroll period, after the LCP has given the contractor notice of inaccuracies detected by audit or record review; provided, however, that prompt correction will stop any duty to withhold if such inaccuracies do not amount to 1 percent of the entire certified weekly payroll in dollar value and do not affect more than half the persons listed as workers employed on that certified weekly payroll, as defined in Labor Code Section 1776 and Title 8 CCR Section 16401. Prompt correction will stop any duty to withhold if such inaccuracies are *de minimus*.

Pursuant to Labor Code Section 1776, the contractor shall, as a penalty to the Awarding Body, forfeit twenty-five dollars (\$25) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated.

C. Withholding for Violation for Not Paying the Per Diem Prevailing Wages

1. "Amount equal to the underpayment" is the total of the following determined by payroll review, audit, or admission of the contractor or subcontractor:
 - a. The difference between the amounts paid to workers and the correct General Prevailing Wage Rate of Per Diem Wages as defined in Title 8, CCR Section 16000, et seq.;
 - b. The difference between the amounts paid to workers and the correct amounts of employer payments, as defined in Title 8 CCR Section 16000 et seq. and determined to be part of the prevailing rate costs of contractors due for employment of workers in such craft, classification, or trade in which they were employed and the amounts paid;
 - c. Estimated amounts of "illegal taking of wages"; and
 - d. Amounts of apprenticeship training contributions paid to neither the program sponsor's training trust nor the California Apprenticeship Council.
2. Provisions relating to the penalties under Labor Code Sections 1775, and 1813:
 - a. Pursuant to Labor Code Section 1775, the contractor shall, as a penalty to the Awarding Body, forfeit up to fifty dollars (\$50) for each calendar day, or portion thereof, for each worker paid less than the prevailing wages.
 - b. Pursuant to Labor Code section 1813, the contractor shall, as a penalty to the Awarding Body on whose behalf the contract is awarded, forfeit twenty-five dollars (\$25) for each worker employed in the execution of the contract by the contractor or by any subcontractor for each calendar day during which such worker is required or permitted to work more than 8 hours in any one calendar day and 40 hours in any one calendar week.

D. Forfeitures Requiring Approval by the Labor Commissioner

1. "Forfeitures" are the amounts of unpaid penalties and wages assessed by the LCP for violations of the prevailing wage laws, whether collected by withholding from the contract amount, by suit under the contract, or both.
2. "Failing to pay the correct rate of prevailing wages" means those public works violations which the Labor Commissioner has exclusive authority to approve before they are recoverable by the Labor Compliance Program, and which are appealable by the contractor before the Director of the Department of Industrial Relations under Labor Code sections 1742 and 1742.1 pursuant to the California Code of Regulations Title 8, Chapter 8, Subchapter 8 (§§ 17201 through 17270).
Regardless of what is defined as prevailing "wages in contract terms, noncompliance with the following are considered failures to pay prevailing wages:
 - a. Nonpayment of items defined as "Employer Payments" and "General Prevailing Rate of Per Diem Wages" in Title 8 CCR Section 16000 and Labor Code Section 1771.
 - b. Failure to provide complete and accurate payroll records, as required by Labor Code Section 1776;
 - c. Paying apprentice wages lower than the journey level rate to a worker who is not an apprentice as defined in Labor Code Section 3077, working under an apprentice agreement in a recognized program;
 - d. Accepting or extracting kickbacks, in violation of Labor Code Section 1778;
 - e. Engaging in prohibited actions related to fees for registration as a public works employee, in violation of Labor Code Section 1779;
 - f. Failure to pay overtime for work over 8 hours in any one day or 40 hours in any one week, in violation of Labor Code sections 1813, 1815, or Title 8 CCR section 16200(a)(3)(F).

E. Determination of Amount of Forfeiture by the Labor Commissioner

1. Where the LCO requests a determination of the amount of forfeiture, the request shall include a file or report to the Labor Commissioner which contains at least the following information:
 - a. The date that the public work was accepted, and the date that a notice of completion was filed;
 - b. Any other deadline which, if missed, would impede collection;
 - c. Evidence of violation in narrative form;
 - d. Evidence that an "audit" or "investigation" occurred in compliance with Title 8 CCR section 16432;
 - e. Evidence that the contractor was given the opportunity to explain why it believes there was no violation; or that any violation was caused by mistake, inadvertence, or neglect before the forfeiture was sent to the Labor Commissioner, and the contractor either did not do so or failed to convince the LCP of its position;

- f. Where the LCP seeks not only amounts of wages but also a penalty as part of the forfeiture, and the contractor has unsuccessfully contended that the cause of violation was a mistake, inadvertence, or neglect, a statement should accompany the proposal for a forfeiture with a recommended penalty amount, pursuant to Labor Code Section 1775;
 - g. Where the LCP seeks only wages or a penalty less than \$50 per day as part of the forfeiture, and the contractor has successfully contended that the cause of violation was a mistake, inadvertence, or neglect, then the file should include the evidence as to the contractor's knowledge of its obligation, including the Program's communication to the contractor of the obligation in the bid invitations, at the pre-job conference agenda and records, and any other notice given as part of the contracting process. Included with the file should be a statement similar to that described in subsection (f) above and recommended penalty amounts, pursuant to Labor Code Section 1775;
 - h. The previous record of the contractor in meeting prevailing wage obligations.
2. The file or report shall be served on the Labor Commissioner not less than 30 days before the final payment or, if that deadline has passed, not less than 180 days following the filing of the notice of completion as long as funds remain in the contract.
 3. A copy of the file or report shall be served on the contractor at the same time as it is sent to the Labor Commissioner.

The LCP may exclude from the documents served on the contractor/subcontractor or surety copies of documents secured from these parties during an audit, investigation, or meeting if those documents are clearly referenced in the file or report.

4. The Labor Commissioner shall affirm, reject, or modify the forfeiture in whole or in part as to penalty and/or wages due.
5. The determination of the forfeiture by the Labor Commissioner is effective on the following date for Labor Compliance Programs having **initial approval** pursuant to Section 16426 of the California Code of Regulations: on the date the Labor Commissioner serves by first class mail on LACDPW and on the contractor, an endorsed copy of the proposed forfeiture, or a drafted forfeiture statement which sets out the amount of forfeiture approved. Service on the contractor is effective if made on the last address supplied by the contractor in the record.

The Labor Commissioner's approval, modification, or disapproval of the proposed forfeiture shall be served within 30 days of receipt of the proposed forfeiture.

F. Deposits of Penalties and Forfeitures Withheld

1. Where the involvement of the Labor Commissioner has been limited to a determination of the actual amount of penalty, forfeiture, or underpayment of wages, and the matter has been resolved without litigation by or against the Labor Commissioner, the Agency shall deposit penalties and forfeitures into its General Fund.
2. Where collection of fines, penalties, or forfeitures results from court action to which the Labor Commissioner and LACDPW are both parties, the fines, penalties, or forfeitures shall be divided between the General Funds of the State and Public Agencies & Awarding Bodies, as the court may decide.

3. All amounts recovered by suit brought by the Labor Commissioner, and to which the LCP on behalf of the Awarding Body is not a party, shall be deposited in the General Fund of the State of California.
4. Pursuant to California Code of Regulations Section 16438(d) all wages and benefits which belong to a worker and are withheld or collected from a contractor or subcontractor, either by withholding or as a result of court action pursuant to Labor Code Section 1775, and which have not been paid to the worker or irrevocably committed on the worker's behalf to a benefits fund, shall be deposited with the Labor Commissioner, who will deal with such wages and benefits in accordance with Labor Code Section 96.7.
5. Pursuant to Labor Code Section 1742.1(b), in lieu of the payment of liquidated damages, a contractor may deposit an amount equal to back wages and penalties in an escrow account established and maintained by the Labor Commissioner.

G. Debarment Policy

1. It is the policy of the LCP that the public works prevailing wage requirements set forth in the California Labor Code, Section 1720-1861, be strictly enforced. In furtherance thereof, construction contractors and subcontractors found to be repeat violators of the California Labor Code shall be referred to the Labor Commissioner for debarment from bidding on or otherwise being awarded any public work contract, within the state of California, for the performance of construction and/or maintenance services for the period not to exceed three (3) years in duration. The duration of the debarment period shall depend upon the nature and severity of the labor code violations and any mitigating and/or aggravating factors, which may be presented at the hearing conducted by the Labor Commissioner for such purpose.

SECTION VII

NOTICE OF WITHHOLDING AND REVIEW THEREOF

A. Notice of Withholding of Contract Payments

After determination of the amount of forfeiture by the Labor Commissioner, the LCP shall provide notice of withholding of contract payments to the contractor and subcontractor, if applicable. The notice shall be in writing and shall describe the nature of the violation and the amount of wages, penalties, and forfeitures withheld. Service of the notice shall be completed pursuant to Section 1013 of the Code of Civil Procedure by first-class and certified mail to the contractor and subcontractor, if applicable. The notice shall advise the contractor and subcontractor, if applicable, of the procedure for obtaining review of the withholding of contract payments. The LCP shall also serve a copy of the notice by certified mail to any bonding company issuing a bond that secures the payment of wages covered by the notice and to any surety on a bond, if their identities are known to the LCP. **A copy of the Notice of Withholding of Contract Payments (NWCP) to be utilized by the LCP is found as Attachment D to this document.**

3. Review of NWCP

1. An affected contractor or subcontractor may obtain review of a NWCP under this chapter by transmitting a written request to the office of the LCP that appears on the NCWP within 60 days after service of the NWCP. If no hearing is requested within 60 days after service of the NWCP, the NWCP shall become final.
2. Within ten days following the receipt of the request for review, the LCP shall transmit to the Office of the Director-Legal Unit the request for review and copies of the Notice of Withholding of Contract Payments, any audit summary that accompanied the notice, and a proof of service or other documents showing the name and address of any bonding company or surety that secures the payment of the wages covered by the notice. **A copy of the required Notice of Transmittal to be utilized by the LCP is found as Attachment E to this document.**
3. Upon receipt of a timely request, a hearing shall be commenced within 90 days before the director, who shall appoint an impartial hearing officer possessing the qualifications of an administrative law judge pursuant to subdivision (b) of Section 11502 of the Government Code. The appointed hearing officer shall be an employee of the department, but shall not be an employee of the Division of Labor Standards Enforcement. The contractor or subcontractor shall be provided an opportunity to review evidence to be utilized by the LCP at the hearing within 20 days of the receipt of the written request for a hearing. Any evidence obtained by the LCP subsequent to the 20-day cutoff shall be promptly disclosed to the contractor or subcontractor. **A copy of a Notice of Opportunity to Review Evidence Pursuant to Labor Code Section 1742(b) form is found as Attachment F to this document.**

Also find Labor Code Section 1742.1(b), which states that in lieu of the payment of liquidated damages, a contractor may deposit an amount equal to back wages and penalties in an escrow account established and maintained by the Labor Commissioner.

The contractor or subcontractor shall have the burden of proving that the basis for the NWCP is incorrect. The NWCP shall be sufficiently detailed to provide fair notice to the contractor or subcontractor of the issues at the hearing.

Within 45 days of the conclusion of the hearing, the director shall issue a written decision affirming, modifying, or dismissing the assessment. The decision of the director shall consist of a notice of findings, findings, and an order. This decision shall be served on all parties pursuant to Section 1013 of the Code of Civil Procedure by first-class mail at the last known address of the party on file with the LCP. Within 15 days of the issuance of the decision, the director may reconsider or modify the decision to correct an error, except that a clerical error may be corrected at any time.

The director has adopted regulations setting forth procedures for hearings under this subdivision. **The regulations are found as Attachment G to this document.**

4. An affected contractor or subcontractor may obtain review of the decision of the director by filing a petition for a writ of mandate to the appropriate superior court pursuant to Section 1094.5 of the Code of Civil Procedure within 45 days after service of the decision. If no petition for writ of mandate is filed within 45 days after service of the decision, the order shall become final. If it is claimed in a petition for writ of mandate that the findings are not supported by the evidence, abuse of discretion is established if the court determines that the findings are not supported by substantial evidence in the light of the whole record.

5. A certified copy of a final order may be filed by the Labor Commissioner in the office of the clerk of the superior court in any county in which the affected contractor or subcontractor has property or has or had a place of business. The clerk, immediately upon the filing, shall enter judgment for the state against the person assessed in the amount shown on the certified order.
6. A judgment entered pursuant to this procedure shall bear the same rate of interest and shall have the same effect as other judgments and shall be given the same preference allowed by law on other judgments rendered for claims for taxes. The clerk shall not charge for the service performed by him or her pursuant to this section.
7. This procedure shall provide the exclusive method for review of a NWCP by the LCP to withhold contract payments pursuant to Section 1771.7.
8. All records shall be retained for at least one year after acceptance of the project or five years after the cessation of all labor on the project that has not been accepted; or one year after a final decision or judgment in any litigation under Labor Code Section 1742 pursuant to California Code of Regulations 16434(d). Written and/or electronic formats are acceptable for State or Federal court filing are required.

SECTION VIII

DISTRIBUTION OF FORFEITED SUMS

1. Before making payments to the contractor of money due under a contract for public work, the LCP on behalf of the Awarding Body shall withhold and retain there from all amounts required to satisfy the NWCP. The amounts required to satisfy the NWCP shall not be disbursed by the Awarding Body until receipt of a final order that is no longer subject to judicial review.
2. Pending a final order, or the expiration of the time period for seeking review of the notice of the withholding, the Awarding Body shall not disburse any contract payments withheld.
3. From the amount recovered, the wage claim shall be satisfied prior to the amount being applied to penalties. If insufficient money is recovered to pay each worker in full, the money shall be prorated among all workers employed on the public works project who are paid less than the prevailing wage rate shall have **PRIORITY** over all Stop Notices filed against the prime contractor.
4. Wages for workers who cannot be located shall be placed in the Industrial Relations Unpaid Fund and held in trust for the workers pursuant to Section 96.7. Penalties shall be paid into the General Fund of the Awarding Body that has enforced this chapter pursuant to Section 1771.7.
5. Where the involvement of the Labor Commissioner had been limited to a determination of the actual amount of penalty, forfeiture or underpayment of wages, and the matter has been resolved without litigation by or against the Labor Commissioner, the Labor Compliance Program shall deposit penalties and forfeitures into its General fund. Furthermore all wages and benefits which belong to a worker and are withheld or collected from a contractor or subcontractor, either by withholding or as a result of administrative proceedings or any court action, and which have not been paid to the employee or irrevocably committed on the

employee's behalf to a benefit fund, shall be deposited with the Labor Commissioner, who shall handle such wages and benefits in accordance with Labor Code Section 96.7

SECTION IX

OUTREACH ACTIVITIES

To ensure the successful implementation of the LCP's Labor Compliance Program, there shall be several outreach activities initiated and maintained.

A. Providing Information to the Public

The Labor Compliance Officer shall be responsible for communication and outreach activities relative to public information on the Labor Compliance Program:

1. Regular presentations to contractors at all LACDPW Job Walk Meetings (Pre-Bid conferences) and Pre Construction Meetings (Pre-Job conferences);
2. Ongoing communication via correspondence and with workers at LACDPW job sites when review of the certified payroll records reveals the possibility of prevailing wage violations.
3. Periodic meetings with contractor organizations, prime contractors and subcontractors interested in public works contracting with the LCP.

B. In-service Management Training on the Labor Compliance Program

The Labor Compliance Program shall provide ongoing management in-servicing and workshops for Facilities, Business, Accounting and legal staff relative to the terms, requirements and administration of the Labor Compliance Program.

SECTION X

ANNUAL REPORTS

A. Annual Report on the LCP to the Director of the Department of Industrial Relations

The LCO will submit to the Director of the Department of Industrial Relations an annual report on the operation of its LCP within 60 days after the end of its fiscal year, or accompany its request for an extension of initial approval, whichever comes first. The annual report will contain, as a minimum, the following information:

1. Number of public works contracts awarded using Bond Act funds, and their total value;
 2. A summary of wages due to workers resulting from failure by contractors to pay prevailing wage rates; the total amount withheld from money due the contractors; and the total amount recovered by action in any court of competent jurisdiction;
 3. A summary of penalties and forfeitures imposed and withheld, or recovered in a court of competent jurisdiction; and
 4. A special summary of all audits that were conducted upon the request of the Labor Commissioner.
5. Copies of this report will be distributed to the Director of the Department of Industrial Relations and Agency staff.

(a) The Labor Compliance Program shall submit to the Director an annual report on its operation within 60 days after the close of its annual reporting period, as defined in subpart (d) below. The annual report shall be made on the appropriate form [LCP-AR1, LCP-AR2, or LCP-AR3 see appendix], for the type of Labor Compliance Program that is submitting the report, unless the Director has agreed to a different reporting format for a Program that has been granted extended authority under section 16427 above. A third party Labor Compliance Program that contracted with more than one Awarding Body or Joint Powers Authority during the annual reporting period shall separately report on Labor Code Section 1771.5(b) enforcement activities for each Awarding Body or Joint Powers Authority covered by the report.

(b) The Annual Report for a person or entity operating a third party Labor Compliance Program shall also include (1) a certification of compliance with conflict of interest disclosure requirements by employees and consultants who participate in making governmental decisions, as defined under Title 2, California Code of Regulations, section 18701, and (2) a current statement disclosing the information required under section 16426(a)(2), (3) and (5) above as well as a Statement of Economic Interests pursuant to California Code of Regulations Section 16430.

(c) Information in the Annual Report shall be reported in sufficient detail to afford a basis for evaluating the scope and level of enforcement activity of the Labor Compliance Program. An annual report shall also include such additional information as the Labor Compliance Program may be required to report as a condition of its approval.

(d) The annual reporting period shall be deemed to commence on the first of the month in which a Labor Compliance Program is first granted approval pursuant to section 16425 or 16426 above and shall conclude on the last day of the month immediately preceding that date in the following year. A Labor Compliance Program shall use the same reporting period in succeeding years; provided that for good cause the Director may authorize a change in the reporting period.

LABOR COMPLIANCE PROGRAM ANNUAL REPORT

Report for the reporting period _____ to _____
(mm/dd/yyyy) (mm/dd/yyyy)LCP ANNUAL REPORT 8 CCR § 16431 -- AB limited

LACDPW

Page 30

LCP ANNUAL REPORT 8 CCR § 16431 -- AB limited

2008

LCP ANNUAL REPORT 8 CCR § 16431 -- AB limited

2008

LCP-AR 1

C. For any amount identified in item B for which approval of forfeiture not requested from the Labor Commissioner, please explain below.

Project Name	Amount Assessed	Amount Recovered	Explanation
Total			

D. For any amount identified in item B for which approval of forfeiture was requested from the Labor Commissioner, please provide the following:

Project Name	Amount Assessed			Amount Recovered		
	LC §1776(g)	LC § 1775	LC § 1813	LC § 1776(g)	LC § 1775	LC § 1813
Total						

E. Identify cases that are or were the subject of LC § 1742 proceedings.

Project Name	Contractor	Nature of Violation	ODL Case #	Current Status

F. Did you refer any contractor to the Labor Commissioner for debarment per LC § 1777.1?

Please check one: ☐ Yes ☐ No

If yes, identify affected contractor(s) or subcontractor(s) and date(s) of referral: _____

G. Did you refer any apprenticeship violation to the Division of Apprenticeship Standards (DAS)?

Please check one: ☐ Yes ☐ No

If yes, identify affected contractor(s) or subcontractor(s) and date(s) of referral: _____

LABOR COMPLIANCE PROGRAM ANNUAL REPORT

Format for Awarding Body that enforces its own Labor Compliance Program for all projects (Labor Code §1771.5(a))

Report for the reporting period (mm/dd/yyyy) to (mm/dd/yyyy)

1. Name of Labor Compliance Program (LCP) :	
2. LCP I.D. Number (assigned by DIR):	3. Date of Initial Approval:
4. Contact person (include name, title, address, telephone, fax, and e-mail, if available):	
5. Did LCP perform any LC § 1771.5 enforcement activities during the 12 months in the reporting period? Please check one: <input type="checkbox"/> Yes If Yes, proceed to item 6 on the next page <input type="checkbox"/> No If No, complete the information below, sign the form and submit to DIR, Office of the Director, Attn: LCP Special Assistant, 455 Golden Gate Avenue, 10th Floor, San Francisco CA 94102	
What suggestions do you have for the Department of Industrial Relations to better assist you with your program in the coming year? (attach additional sheets if necessary)	
SUBMITTED BY:	
Signature	Name and Title
	Date

6. LC § 1771.5 enforcement activities (provide all information requested, attaching as many sheets as necessary).					
A. List projects handled by LCP within the past 12 months.					
Project Name	Bid Advertisement Date	Prime Contractor			Contract Amount
Total					
B. List any project subject to the limited exemption clause of LC § 1771.5(a), if applicable.					
Project Name	Description of Project				Contract Amount
Total					

LACDPW

1000 JOURNAL OF CLIMATE

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[illegible]

Project Name	Contractor	Nature of Violation	ODL Case #	Current Status

Please check one: ☐ Yes ☐ No

If yes, identify affected contractor(s) or subcontractor(s) and date(s) of referral: _____

LCP-AR3**LABOR COMPLIANCE PROGRAM ANNUAL REPORT**

Format for Approved Program that contracts with Awarding Bodies to provide labor compliance enforcement

Report for the reporting period _____ to _____
(mm/dd/yyyy) (mm/dd/yyyy)

1. Name of Labor Compliance Program (LCP) :	
2. LCPI.D. Number (assigned by DIR):	3. Date of Initial Approval:
4. Contact person (include name, title, address, telephone, fax, and e-mail, if available):	
5. List all Awarding Bodies covered by this report as well as any other Awarding Bodies with whom the LCP currently has a contract to provide compliance enforcement. If <i>none</i> , please proceed directly to item 7 and provide all requested information. Then complete the information below, and sign and submit this form to DIR, Office of the Director, Attn: LCP Special Assistant 455 Golden Gate Avenue, 10 th Floor, San Francisco, CA 94102.	
What suggestions do you have for the Department of Industrial Relations to better assist you with your program in the coming year? (attach additional sheets if necessary):	
SUBMITTED BY:	
Signature _____	Name and Title _____ Date _____

LCP-AR3

6. LC § 1771.5 enforcement activities (provide all information requested, attaching as many sheets as necessary, and *please complete separate forms for each Awarding Body covered in this report*).

Awarding Body: _____

A. List projects handled by LCP within the past 12 months.

Project Name	Bid Advertisement Date	Prime Contractor	Contract Amount
Total			

B. Summary of all wages and penalties assessed and/or recovered.

Project Name	Affected Contractor (who directly employed the worker)	Amount Assessed	Amount Recovered	Approval of Forfeiture Requested from Labor Commissioner?	Description of Violation
				<input type="checkbox"/> Yes <input type="checkbox"/> No	
				<input type="checkbox"/> Yes <input type="checkbox"/> No	
				<input type="checkbox"/> Yes <input type="checkbox"/> No	
				<input type="checkbox"/> Yes <input type="checkbox"/> No	
				<input type="checkbox"/> Yes <input type="checkbox"/> No	
				<input type="checkbox"/> Yes <input type="checkbox"/> No	
				<input type="checkbox"/> Yes <input type="checkbox"/> No	
Total					

LCP-AR3

C. For any amount identified in item B for which approval of forfeiture not requested from the Labor Commissioner, please explain below.

Project Name	Amount Assessed	Amount Recovered	Explanation
Total			

D. For any amount identified in item B for which approval of forfeiture was requested from the Labor Commissioner, please provide the following:

Project Name	Amount Assessed			Amount Recovered		
	LC §1776(g)	LC § 1775	LC § 1813	LC § 1776(g)	LC § 1775	LC § 1813
Total						

E. Identify cases that are or were the subject of LC § 1742 proceedings.

Project Name	Contractor	Nature of Violation	ODL Case #	Current Status

F. Did you refer any contractor to the Labor Commissioner for debarment per LC § 1777.1?

Please check one:

☐ Yes

☐ No

If yes, identify affected contractor(s) or subcontractor(s) and date(s) of referral: _____

G. Did you refer any apprenticeship violation to the Division of Apprenticeship Standards (DAS)?

Please check one:

☐ Yes

☐ No

If yes, identify affected contractor(s) or subcontractor(s) and date(s) of referral: _____

LCP-AR3

7. On a separate sheet, provide a certificate of compliance with conflict of interest disclosure requirements by employees and consultants who participate in making governmental decisions (as defined under 2 CCR § 18701) along with the names of LCP personnel who are filing disclosure statements and the agencies with which those statements are being filed.

8. Please update the following information per 8 CCR § 16426(a)(2), (3) and (5) disclosure requirement.

A. Identify the geographical areas in which the program intends to operate and the identity of any public agencies not previously identified in this report with which the program intends to contract to provide labor compliance enforcement.

B. State whether the entity shares personnel, management, ownership or other close affiliation with any of the following: (1) any contractor or subcontractor that within the preceding five years has been awarded a public works contract within the geographical area in which the program operates or intends to operate or with any public agency with which the program has contracted or intends to contract to provide labor compliance enforcement; (2) any person or entity who has been the surety on such a contract; (3) any joint labor-management committee established pursuant to the Federal Labor Management Cooperation Act of 1978 (section 175a of Title 29 of the United States Code); or (4) any person or entity who has represented workers employed in the same or similar classifications as those employed for such a contract and who has been engaged in (i) an organizational campaign under the National Labor Relations Act with contractors competing for such contracts or (ii) a jurisdictional dispute with another collective bargaining representative of workers utilized for such contracts.

For each affiliation, please provide the name, address, telephone number, and principal contact person for the person or entity; please identify shared personnel, management, and ownership; and if applicable, please provide a short description of the nature and extent of any other close affiliation:

C. Identify the attorney or law firm available to provide legal support for the LCP, and whether the persons or firms providing that support also represent any contractor, subcontractor, surety, or worker representative referred to in the preceding item.

Attorney/Law Firm Name (include address, contact person, and telephone number)

**COUNTY OF LOS ANGELES
DEPARTMENT OF PUBLIC WORKS**

ATTACHMENT A

**LABOR COMPLIANCE CHECKLIST
PRE-CONSTRUCTION MEETINGS**

(Pursuant to Title 8, Section 16430 of the California Code of Regulations)

NAME (print) _____ Date _____

COMPANY _____ Phone _____

ADDRESS _____ Fax # _____

_____ School _____

SUPERINTENDENT _____ Project # _____

The federal and state labor law requirements applicable to the contract are composed of, but not limited to, the following:

1. Payment of Prevailing Wage Rates

The contractor to whom the contract is awarded and its subcontractors hired for the public works project are required to pay not less than the specified general prevailing wage rates to all workers employed in the execution of the contract.

The contractor is responsible for ascertaining and complying with all current general prevailing wage rates for crafts and any rate changes that occur during the life of the contract. Information on all prevailing wage rates and all rate changes are to be posted at the job site for all workers to view.

2. Apprentices

It is the duty of the contractor and subcontractors to employ registered apprentices on the public works project under Labor Code Section 1777.5;

3. Penalties

There are penalties required for contractor's/subcontractor's failure to pay prevailing wages and for failure to employ apprentices, including forfeitures and debarment under Labor Code Sections 1775; 1776; 1777.1; 1777.7 and 1813;

4. Certified Payroll Reports

Under Labor Code Section 1776, contractors and subcontractors are required to keep accurate payroll records showing the name, address, social security number and work classification of each employee and owner performing work; also the straight time and overtime hours worked each day and each week, the fringe benefits, and, the actual per diem wage paid to each owner, journey person, apprentice worker or other employee hired in connection with the public works project.

Employee payroll records shall be certified and shall be made available for inspection at all reasonable hours at the principal office of the contractor/subcontractor, or shall be furnished to any employee, or his/her authorized representative on request, pursuant to Labor Code Section 1776;

Each contractor and subcontractor shall submit its weekly certified payroll reports to the LCP on a monthly basis. In the event that there has been no work performed during a given week, the Certified Payroll Report shall be annotated: "No work" for that week.

Under Labor Code Section 1776(g) there are penalties required for contractor's/subcontractor's failure to maintain and submit copies of certified payroll records on request.

5. Nondiscrimination in Employment

There exist prohibitions against employment discrimination under Labor Code Sections 1735 and 1777.6, the Government Code, the Public Contracts Code, and Title VII of the Civil Rights Act of 1964;

6. Kickbacks Prohibited

Contractors and subcontractors are prohibited from recapturing wages illegally or extracting "kickbacks" from employee wages under Labor Code Section 1778;

7. Acceptance of Fees Prohibited

There exists a prohibition against contractor/subcontractor acceptance of fees for registering any person for public work under Labor Code Section 1779; or for filling work orders on public works contracts pursuant to Labor Code Section 1780;

8. Listing of Subcontractors

All prime contractors are required to list properly all subcontractors hired to perform work on the public works projects covering more than one-half of one percent, pursuant to Government Code Section 4100 et seq.;

9. Proper Licensing

Contractors are required to be licensed properly and to require that all subcontractors be properly licensed. Penalties are required for employing workers while unlicensed under Labor Code Section 1021 and under the California Contractor License Law found at Business and Professions Code Section 7000 et seq.

10. Unfair Competition Prohibited

Contractors/Subcontractors are prohibited from engaging in unfair competition as specified under Business and Professions Code Sections 17200 to 17208;

11. Workers Compensation Insurance

Labor Code Section 1861 requires that contractors and subcontractors be insured properly for Workers Compensation.

12. OSHA

Contractors and subcontractors are required to abide by the Occupational, Safety and Health laws and regulations that apply to the particular construction project.

13. Undocumented Workers

Federal law prohibits contractors and subcontractors from hiring undocumented workers and requires contractors and subcontractors to secure proof of eligibility/citizenship from all workers.

14. Itemized Wage Statements

Contractors and subcontractors are required to provide itemized wage statements to employees under Labor Code Section 226.

In accordance with federal and state laws and with Awarding Body contract documents, the undersigned prime contractor wishes to assure the Awarding Body that it intends to comply with the above-referenced labor law requirements, fully understanding that failure to comply with the above requirements may subject it to penalties as provided above.

For the Contractor:

(Signature)

(Date)

Prime Contractor

Project Name

For the Awarding Body:

(Signature)

(Date)

Attachment B

Labor Compliance Program Regulations

Audit Record Worksheets [8 Cal. Code Reg. §16432]

- Public Works Investigation Worksheet
- Public Works Audit Worksheet
- Prevailing Wage Determination
Summary

FOR THE RECORD

[illegible]

The following entries represent the amounts relied upon for calculating Labor Code 1775 and 1813 penalties.

1775	Per Day
1813	Per Day

PREVAILING WAGE DETERMINATION SUMMARY

CODE NO.	CLASSIFICATION	Effective Date	HOURLY RATE	Contributions	TRAINING	TIME 1/2	HOLIDAY / TRAVEL & SUNDAY SUBSISTENCE	Other hourly Requirements
1								
2								
3								
4								
5								
6								
7								
8								
9								
10								
11								
12								

WAGE DETERMINATION INFORMATION

CODE NO.	CLASSIFICATION	WAGE DETERMINATION NO.
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		

**COUNTY OF LOS ANGELES
DEPARTMENT OF PUBLIC WORKS**

**LABOR COMPLIANCE PROGRAM
AUDIT RECORD FORM
(For Use with CCR Section 16432 Audits)**

An audit record is sufficiently detailed to “verify compliance with the requirements of Chapter 1, Public Works, Part 7 of Division 2,” when the audit record displays that the following procedures have been followed:

1. Audit of the obligation to carry workers’ compensation insurance means producing written evidence of a binder issued by the carrier, or telephone or written inquiry to the Workers’ Compensation Insurance Rating Bureau;
2. Audit of the obligation to employ and train apprentices means inquiry to the program sponsor for the apprenticeable craft or trade in the area of the public work as to: whether contract award information was received, including an estimate of journeyperson hours to be performed and the number of apprentices to be employed; whether apprentices have been requested, and whether the request has been met; whether the program sponsor knows of any amounts received from the contractor or subcontractor for the training fund or the California Apprenticeship Council; and whether persons listed on the certified payroll in that craft or trade being paid less than the journeyperson rate are apprentices registered with that program and working under apprentice agreements approved by the Division of Apprenticeship Standards;
3. Audit of the obligation to pass through amounts, made part of the bid, for apprenticeship training contributions to either the training trust or the California Apprenticeship Council, means asking for copies of checks remitted, or when the audit occurs more than 30 days after the month in which payroll has been paid, copies of canceled checks remitted;
4. Audit of “illegal taking of wages” means inspection of written authorizations for deductions (as listed in Labor Code Section 224) in the contractor’s files and comparison to wage deduction statements furnished to employees (Labor Code Section 226), together with an interview of several employees as to any payments made which are not reflected on the wage deduction statements;
5. Audit of the obligation to keep records of working hours (Title 8 CCR Section 16432), and pay not less than required for hours worked in excess of 8 hours/day and 40 hours/week (Title 8 CCR Section 16200(a)(3)(F)), means review and audit of weekly certified payroll records;
6. Audit of the obligation to pay the prevailing per diem wage means review and audit of weekly-certified payroll records for compliance with:
 - a. All elements defined as the General Prevailing Rate of Per Diem Wages in Title 8 CCR Section 16000, which were determined to be prevailing in the Director’s determination in effect on the date of the call for bids, or as reflected in any subsequent revised determination issued by the Director’s office, copies of which are available at the LCO’s Office and posted at the public works job site;
 - b. All elements defined as Employer Payments to Workers set forth in Title 8 CCR Section 16000, which were determined to be prevailing in the Director’s determination in effect on the date of the call for bids, or as reflected in any subsequent revised determination issued by the Director’s office, copies of which are available at the LCO’s Office and posted at the public works job site.

Labor Compliance Program <hr/> <hr/> <hr/> <hr/> Phone: Fax:	(SEAL)
Date:	In Reply Refer to Case No.:

Notice of Withholding of Contract Payments

Awarding Body	^a Work Performed in County of
Project Name	^a Project No.
Prime Contractor	
Subcontractor	

After an investigation concerning the payment of wages to workers employed in the execution of the contract for the above-named public works project, the Labor Compliance Program for _____ (A Labor Compliance Program) has determined that violations of the California Labor Code have been committed by the contractor and/or subcontractor identified above. In accordance with Labor Code sections 1771.5 and 1771.6, the Labor Compliance Program hereby issues this Notice of Withholding of Contract Payments.

The nature of the violations of the Labor Code and the basis for the assessment are as follows:

The Labor Compliance Program has determined that the total amount of wages due is: \$ _____

The Labor Compliance Program has determined that the total amount of penalties assessed under Labor Code sections 1775 and 1813 is: \$ _____

The Labor Compliance Program has determined that the amount of penalties assessed under Labor Code section 1776 is: \$ _____

LABOR COMPLIANCE PROGRAM

By: _____

Notice of Right to Obtain Review - Formal Hearing

In accordance with Labor Code sections 1742 and 1771.6, an affected contractor or subcontractor may obtain review of this Notice of Withholding of Contract Payments by transmitting a written request to the office of the Labor Compliance Program that appears below within 60 days after service of the notice. **To obtain a hearing, a written Request for Review must be transmitted to the following address:**

Labor Compliance Program

Review Office-Notice of Withholding of Contract Payments

A **Request for Review** either shall clearly identify the Notice of Withholding of Contract Payments from which review is sought, including the date of the notice, or it shall include a copy of the notice as an attachment, and shall also set forth the basis upon which the notice is being contested. In accordance with Labor Code section 1742, the contractor or subcontractor shall be provided an opportunity to review evidence to be utilized by the Labor Compliance Program at the hearing within 20 days of the Labor Compliance Program's receipt of the written **Request for Review**.

Failure by a contractor or subcontractor to submit a timely Request for Review will result in a final order which shall be binding on the contractor and subcontractor, and which shall also be binding, with respect to the amount due, on a bonding company issuing a bond that secures the payment of wages and a surety on a bond. Labor Code section 1743.

In accordance with Labor Code section 1742(d), a certified copy of a final order may be filed by the Labor Commissioner in the office of the clerk of the superior court in any county in which the affected contractor or subcontractor has property or has or had a place of business. The clerk, immediately upon the filing, shall enter judgment for the State against the person assessed in the amount shown on the certified order.

Opportunity for Settlement Meeting

In accordance with Labor Code Section 1742.1 (b), the Labor Compliance Program shall, upon receipt of a request from the affected contractor or subcontractor within 30 days following the service of this Notice of Withholding of Contract Payments, afford the contractor or subcontractor the opportunity to meet with the Labor Compliance Program's designee **to attempt to settle a dispute regarding the notice**. The settlement meeting may be held in person or by telephone and shall take place before the expiration of the 60-day period for seeking a hearing as set forth above under the heading Notice of Right to Obtain Review. No evidence of anything said or any admission made for the purpose of, in the course of, or pursuant to, the settlement meeting is admissible or subject to discovery in any administrative or civil proceeding. No writing prepared for the purpose of, in the course of, or pursuant to, the settlement meeting, other than a final settlement agreement, is admissible or subject to discovery in any administrative or civil proceeding. This opportunity to timely request an informal settlement meeting is **in addition** to the right to obtain a formal hearing, and a settlement meeting may be requested even if a written **Request for Review** has already been made. Requesting a settlement meeting, however, does not extend the 60-day period during which a formal hearing may be requested.

A written request to meet with the Labor Compliance Program's designee to attempt to settle a dispute regarding this notice must be transmitted to _____ at the following address:

Liquidated Damages

In accordance with Labor Code section 1742.1, after 60 days following the service of this Notice of Withholding of Contract Payments, the affected contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the notice shall be liable for liquidated damages in an amount equal to the wages, or portion thereof that still remain unpaid.

If the notice subsequently is overturned or modified after administrative or judicial review, liquidated damages shall be payable only on the wages found to be due and unpaid. If the contractor or subcontractor demonstrates to the satisfaction of the Director of the Department of

[Name and Contact Information for person issuing Notice]	
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Industrial Relations that he or she had substantial grounds for believing the assessment or notice to be an error, the Director shall waive payment of the liquidated damages.

The Amount of Liquidated Damages Available Under this Notice is \$_____.

Distribution:

Prime Contractor
Subcontractor
Surety(s) on Bond

Attach:

Audit Summary
Proof of Service

COPIES OF THIS REQUEST, INCLUDING ALL ATTACHMENTS, SHALL BE SERVED ON THE AFFECTED CONTRACTOR AND AFFECTED SUBCONTRACTOR AT THE SAME TIME THAT IT IS SENT TO THE DIVISION OF LABOR STANDARDS ENFORCEMENT.

Date:	Case or Contract No.:
-------	-----------------------

ATTACHMENT D

NOTICE OF TEMPORARY WITHHOLDING OF CONTRACT PAYMENTS DUE TO DELINQUENT OR INADEQUATE PAYROLL RECORDS (8 CCR §16435)

Awarding Body:	Work performed in County of:
Project Name and Number (if any):	
Prime Contractor:	
Subcontractor:	

Pursuant to Labor Code §1771.5(b)(5) and 8 CCR §16435, contract payments are being withheld due to delinquent or inadequate payroll records.

Contractor or subcontractor whose payroll records are delinquent or inadequate:

_____ ☐ The following payroll records are delinquent (specify weeks and due dates):

☐ The following payroll records are inadequate (specify weeks and ways in which records are deemed inadequate under 8 CCR §16435(d)):

assessment of back wages and penalties and the withholding of contract payments if, upon investigation, a determination is made that the contractor or subcontractor violated the public works requirements of the Labor Code.

This Notice only addresses rights and responsibilities under state law. Awarding bodies, labor compliance programs, and contractors may have other rights or responsibilities under federal or local law, where applicable, and may also have additional rights or remedies under the public works contract.

ATTACHMENT E

LABOR COMPLIANCE PROGRAM <hr/> Review Office - Notice of Withholding of Contract Payments <hr/> <hr/> <hr/> Phone: Fax:	(SEAL)
Date:	In Reply Refer to Case No.:

Notice of Opportunity to Review Evidence Pursuant to Labor Code Section 1742(b)

To: Prime Contractor

Subcontractor

Please be advised that this office has received your **Request for Review**, dated _____, and pertaining to the Notice of Withholding of Contract Payments issued by the Labor Compliance Program in Case No. _____.

In accordance with Labor Code section 1742(b), this notice provides you with an opportunity to review evidence to be utilized by the Labor Compliance Program at the hearing on the Request for Review, and the procedures for reviewing such evidence.

Rule 17224 of the Prevailing Wage Hearing Regulations provides as follows:

A(a) Within ten (10) days following its receipt of a Request for Review, the Enforcing Agency shall also notify the affected contractor or subcontractor of its opportunity and the procedures for reviewing evidence to be utilized by the Enforcing Agency at the hearing of the Request for Review.

(b) An Enforcing Agency shall be deemed to have provided the opportunity to review evidence required by this Rule if it (1) gives the affected contractor or subcontractor the option at said party's own expense to either (i) obtain copies of all such evidence through a commercial copying service or (ii) inspect and copy such evidence at the office of the Enforcing Agency during normal business hours; or if (2) the Enforcing Agency at its own expense forwards copies of all such evidence to the affected contractor or subcontractor.

(c) The evidence required to be provided under this Rule shall include the identity of witnesses whose testimony the Enforcing Agency intends to present, either in person at the hearing or by declaration or affidavit. This provision shall not be construed as requiring the Enforcing Agency to prepare or provide any

separate listing of witnesses whose identities are disclosed within the written materials made available under subpart (a).

(d) The Enforcing Agency shall make evidence available for review as specified in subparts (a) through (c) within 20 days of its receipt of the Request for Review; *provided that*, this deadline may be extended by written request or agreement of the affected contractor or subcontractor. The Enforcing Agency's failure to make evidence available for review as required by Labor Code section 1742(b) and this Rule, shall preclude the enforcing agency from introducing such evidence in proceedings before the Hearing officer or the Director.

(e) This Rule shall not preclude the Enforcing Agency from relying upon or presenting any evidence first obtained after the initial disclosure of evidence under subparts (a) through (d), *provided that*, such evidence is promptly disclosed to the affected contractor or subcontractor. This Rule also shall not preclude the Enforcing Agency from presenting previously undisclosed evidence to rebut new or collateral claims raised by another party in the proceeding.

In accordance with the above Rule, please be advised that the Labor Compliance Program's procedure for you to exercise your opportunity to review evidence is as follows:

Within five calendar days of the date of this notice, please transmit the attached Request to Review Evidence to the following address:

Attention:_____

Request to Review Evidence

To: _____

From: _____

Regarding Notice of Withholding of Contract Payments Dated

Our Case No.: _____

The undersigned hereby requests an opportunity to review evidence to be utilized by the Labor Compliance Program at the hearing on the Request for Review.

Phone No.: _____
Fax No.: _____

Attachment G

LABOR COMPLIANCE PROGRAM Review Office - Notice of Withholding of Contract Payments _____ _____ _____ Phone: Fax: Date:	(SEAL) In Reply Refer to Case No.:
--	--

Notice of Transmittal

To: Department of Industrial Relations
Office of the Director-Legal Unit
Attention: Lead Hearing Officer
P. O. Box 420603
San Francisco, CA 94142-0603

Enclosed herewith please find a Request for Review, dated _____, postmarked
_____, and received by this office on _____.

Also enclosed please find the following:

- _____ Copy of Notice of Withholding of Contract Payments
- _____ Copy of Audit Summary

LABOR COMPLIANCE PROGRAM

By: _____

cc: Prime Contractor
Subcontractor
Bonding Company

Please be advised that the Request for Review identified above has been received and transmitted to the address indicated. Please be further advised that the governing procedures applicable to these hearings are set forth at Title 8, California Code of Regulations sections 17201-17270. These hearings are **not** governed by Chapter 5 of the Government Code, commencing with section 11500.

Section III

LACDPW

LABOR COMPLIANCE PROGRAM OFFICE

Implementation Plan

Section III

IMPLEMENTATION PLAN

- Labor Compliance Officer receives construction contract awards/work schedules from the Awarding Agency.
- Labor Compliance Officer participates in Pre Construction meeting.
- Labor Compliance Officer provides site monitors with work schedules. All active sites are monitored weekly
- Site monitors, both LACDPW employees, conduct interviews and return interview sheets to Labor Compliance Officer.
- Labor Compliance Officer enters information from interviews into database.
- Labor Compliance Officer verifies information from certified payroll records.
- Labor Compliance Officer notifies contractor in writing of any discrepancies with certified payroll records.
- If clarification/correction is not received from the contractor within two weeks, Labor Compliance Officer will commence an investigation.
- Upon completion of the investigation, a report will be sent to the Department of Industrial Relations with recommendations for penalties to be applied to the contractor.
- Labor Compliance Officer prepares and submits public works violation reports to Labor Commissioner as required.
- Labor Compliance Officer communicates on a regular basis with contractors, workers, building and trade organizations, and other community entities and in-service management to LACDPW personnel.
- Labor Compliance Officer prepares and submits annual reports to the Director of the Department of Industrial Relations.
- Labor Compliance Officer manages all facets and is the primary contact for the Awarding Body's Labor Compliance Program.
- Labor Compliance Officer provides site monitors and staff with site visitation training and assigns projects when applicable.

Section IV

LACDPW

LABOR COMPLIANCE PROGRAM OFFICE

Operations Manual

SECTION IV

OPERATIONS MANUAL

Site Visitations

1. Safety is the paramount factor for any site visit to any LACDPW construction projects. Do not enter any area that appears unsafe. Site monitor is expected to exercise reasonable caution at all times.
2. All authorized personnel visiting any LACDPW construction site are required to be properly identified as a LACDPW representative by wearing visible picture Identification (badge), or identifying themselves as such. Additionally, all authorized personnel are required to wear hard hats and safety shoes.
3. Authorized personnel shall visit all sites on a non-interference basis and take a minimum amount of the workers' time for interview purposes.
4. Upon arrival at a site, the site monitor will check in at the site Superintendent's (contractor's) trailer prior to any interviewing. In the event there is not a construction trailer, you will check in at the site's administrative office. Identify yourself and state the purpose of the visit. Sign in if required to do so. If the site Superintendent cites some reason that denies access to the site, promptly and politely remove yourself. Make a note of this occurrence and include in your report to the LCO.
5. Check to see that the following are displayed in the contractor's trailer:
 - Notice LCP with Contact Information for Workers
 - Prevailing Wage Determination posted
 - Sign-in sheets, where applicable

If any of these items are not readily visible, either replace and/or remind contractor that the postings are part of the code of regulations and labor code requirements. On subsequent visits, make sure that these items are posted, or the contractor will be found to be in noncompliance.
6. There will be times when the site Superintendent is somewhere on the site and/or there is no contractor present in the trailer. You should check in at the Awarding Body's Inspector of Record (IOR) trailer. The IOR will also be able to tell you which contractors are on the site at that time. If all trailers are empty or locked, try to locate the site superintendent or IOR on the site prior to commencing interviewing.

Interviewing

1. Once you have checked in with the site superintendent and obtain access to the site, try to locate tradespersons working in clusters. For instance, several painters, electricians, roofers, etc. working in one area. Approach the workers individually in a non-threatening, professional manner. Identify yourself, indicate that you are a LACDPW representative, and that you need only a few seconds of their time to ask some very generic questions to ensure that they are receiving the proper rate of pay for the type of work they are doing. Again, do not endanger yours or any tradesperson's safety in conducting these interviews. Do not insist that someone on a scaffold 40 feet in the air come down for an interview. Do not ask anyone to form a line until you can get to them; allow them to continue working until you can get to them individually.

These interviews are random; two or three tradespersons for each subcontractor are more than sufficient for one visit. Any persons missed are usually picked up on the next visit. If only one tradesperson is at the site, then interview that person if possible. If you are told that the rest of the crew will be there in an hour, do not wait, unless your total site interviewing will take that length of time. Thirty minutes of interviewing per site is typically sufficient, depending upon the site size and/or number of subcontractors present. Contractor tradesperson should also be interviewed.

2. Using the Labor Compliance Site Visitation Interview form, ask each person the following: name, social security number, employer, title (trade), rate of pay, and task being performed at the time of interview.
3. Should someone decline to speak with you, respect those wishes. If someone asks if this is union-related, tell them no. LACDPW works with both open and closed shop trades.
4. If you try to interview someone who does not speak English and you cannot communicate in the appropriate language, try to locate a coworker who can interpret for you. If you find an entire crew unable to speak English and no interpreter, include this in your report to the LCO.
5. If someone refuses to disclose his social security number to you, respect those wishes. However, assure that person that all information given is kept strictly confidential.
6. If someone does not know their rate of pay (most tradespersons know), ask for a guesstimate. If the response is, "whatever prevailing wage is", so indicate on the form.
7. If someone indicates that he is an apprentice, make sure that you ask him what period. These can be anywhere from 1st to 10th. If he's not sure, ask him how many years he's been apprenticed in the specific trade and/or to guesstimate and so indicate on the interview form.
8. ALWAYS thank them for their time.
9. Keep in mind that you are there to collect information only, do not tell them how to do their jobs. Should you witness what you consider a potentially unsafe or unwarranted condition, you are to contact the site inspector or job superintendent of your findings immediately and make a note on your site visitation log of what you observed. Upon your return to the office, report your findings to the LCO.

Reporting

1. All original interview forms shall be submitted to the LCO no later than the end of each workweek.

Section V

LACDPW

LABOR COMPLIANCE PROGRAM OFFICE

Procedures

SECTION V

PROCEDURES

Certified Payroll Verification Procedures

1. The Awarding Agency representative will provide the Labor Compliance Officer with construction work schedules.
2. Upon receipt of certified payroll reports from general/subcontractors once a week, compare information from the Labor Compliance visitation log to the contractors certified payroll and the prevailing wage schedule.
3. Compare name and social security number with trade classification listed.
4. Ensure prevailing wage listed is correct for the classification listed using the prevailing wage schedule
5. Check for employment of apprentices, correct rate of pay, and proper ratio to journey workers.
6. Contact the contractor in writing and send by certified mail any inaccuracies in the verification of its certified payroll.
7. If clarification/correction is not received within two weeks from the contractor, the Labor Compliance Officer will commence an investigation.
8. Upon completion of the investigation, a report will be sent to the Department of Industrial Relations with recommendations for penalties to be applied to the contractor.
9. Retain all original interview forms and annotate the database as applicable.

Site Monitor Procedures

1. Receive construction site work schedule from Labor Compliance Officer.
2. Monitor active projects weekly.
3. Check in with site administrative office/site superintendent
4. Utilizing the Labor Compliance Site Visitation Interview form, conduct interviews with workers.
5. Note on your form any infractions you may observe while conducting the interview.
6. Return interview form to the Labor Compliance Officer.
7. Report any infractions you observed to the Labor Compliance Officer.

Section VI

LACDPW

LABOR COMPLIANCE PROGRAM

Forms

LACDPW LABOR COMPLIANCE PROGRAM PREVAILING WAGE HANDOUT

THE PUBLIC WORKS REQUIREMENTS ARE:

(A) the appropriate number of apprentices are on the job site, as set forth in Labor Code Section 1777.5.

(B) worker's compensation coverage, as set forth in Labor Code Sections 1860 and 1861.

(C) keep accurate records of the work performed on the public works project, as set forth in Labor Code Section 1812.

(D) inspection of payroll records pursuant to Labor Code Section 1776, and as set forth in 8 CCR Section 16400(e).

(E) other requirements imposed by law.

(5) Withhold monies. See Labor Code Section 1727.

(6) Ensure that public works projects are not split or separated into smaller work orders or projects for the purpose of evading the applicable provisions of Labor Code Section 1771.

(7) Deny the right to bid on public work contracts to contractors or subcontractors who have violated public work laws, as set forth in Labor Code Section 1777.7.

(8) Not permit workers on public works to work more than eight hours a day or 40 hours in any one calendar week, unless compensated at not less than time and a half as set forth in Labor Code Section 1815.

Exception: If the prevailing wage determination requires a higher rate of pay for overtime work than is required under Labor Code Section 1815, then that higher overtime rate must be paid [,as specified in 16200(a)(3)(F).]

(9) Not take or receive any portion of the workers' wages or accept a fee in connection with a public works project, as set forth in Labor Code Sections 1778 and 1779.

(10) Comply with those requirements as specified in Labor Code Sections 1776(g), 1777.5, 1810, 1813, and 1860.

THE CONTRACTOR AND SUBCONTRACTOR SHALL:

(1) Pay not less than the prevailing wage to all workers, as defined in CCR's section 16000(a), and as set forth in Labor Code Sections 1771 and 1774;

(2) Comply with the provisions of Labor Code Sections 1773.5, 1775, and 1777.5 regarding public works job sites;

(3) Provide workers' compensation coverage as set forth in Labor Code Section 1861;

(4) Comply with Labor Code Sections 1778 and 1779 regarding receiving a portion of wages or acceptance of a fee;

(5) Maintain and make available for inspection payroll records, as set forth in Labor Code Section 1776;

(6) Pay workers overtime pay, as set forth in Labor Code Section 1815 or as provided in the collective bargaining agreement adopted by the Director as set forth in 8 CCR Section 16200(a)(3); and

(7) Comply with Section 16101 of these regulations regarding discrimination.

(8) Be subject to provisions of Labor Code Section 1777.7 which specifies the penalties imposed on a contractor who willfully fails to comply with provisions of Section 1777.5.

(9) Comply with those requirements as specified in Labor Code Sections 1810 and 1813.

(10) Comply with other requirements imposed by law.

PREVAILING WAGE CONTRACTOR HANDOUT

APPRENTICE TRAINING

SEE LABOR CODE SECTION 1777.5

(e) Prior to commencing work on a contract for public works, every contractor shall submit contract award information to an applicable apprenticeship program **that can supply apprentices to the site of the public work**. The information submitted shall include an estimate of journeyman hours to be performed under the contract, the number of apprentices proposed to be employed, and the approximate dates the apprentices would be employed. A copy of this information shall also be submitted to the LCP if requested.

Within 60 days after concluding work on the contract, each contractor and subcontractor shall submit to the LCP, if requested, and to the apprenticeship program a verified statement of the journeyman and apprentice hours performed on the contract. The information under this subdivision shall be public. The apprenticeship programs shall retain this information for 12 months.

APPRENTICE TRAINING CONTRIBUTION REQUIREMENTS

SEE CALIFORNIA CODE OF REGULATIONS: TITLE 8, ARTICLE 4,

16200(G) **Wage rates, training contributions and apprenticeship contributions.**

Apprenticeship rates shall be determined by the Director of Industrial Relations using apprentice wage standards set forth in the collective bargaining agreement and/or approved by the California Apprenticeship Council. A contractor or subcontractor on a public works contract must pay training fund contributions or apprenticeship contributions in one of the following manners:

1. into the appropriate craft apprenticeship program in the area of the site of the public work; or
2. (if the trust fund is unable to accept such contributions) an equivalent amount shall be paid to the California Apprenticeship Council (CAC) administered by DAS.
3. If neither of the above will accept the funds, cash pay shall be as provided for in CCR's section 16200(a)(3)(I).

SEE CALIFORNIA CODE OF REGULATIONS: TITLE 8, ARTICLE 10, and SECTION 230.2

§230.2. **Payment of Apprenticeship Training Contributions to the Council.**

(a) Contractors who are neither required nor wish to make apprenticeship training contributions to the applicable local training trust fund shall make their training contributions to the Council. Contractors may refer to the Director of the Department of Industrial Relations applicable prevailing wage determination for the amount owed for each hour of work performed by journeymen and apprentices in each apprenticeable occupation.

(b) Training contributions to the Council are due and payable on the 15th day of each month for work performed during the preceding month.

(c) Training contributions to the Council shall be paid by check and shall be accompanied by a completed CAC-2 Form, Training Fund Contributions, (Rev. 10/91), or the following information:

- (1) The name, address, and telephone number of the contractor making the contribution.
- (2) The contractor's license number.
- (3) The name and address of the public agency that awarded the contract.
- (4) The jobsite location, including the county where the work was performed.
- (5) The contract or project number.
- (6) The time period covered by the enclosed contributions.
- (7) The contribution rate and total hours worked by apprenticeable occupation.

CERTIFYING PERSON

SEE CALIFORNIA CODE OF REGULATIONS: TITLE 8, GROUP 3, and ARTICLE 1, 16000 DEFINITIONS.

A person with the authority to affirm under penalty of perjury that the records provided, depict truly, fully and correctly the type of work performed, the hours worked, days worked and amounts paid.

PREVAILING WAGE CONTRACTOR HANDOUT

CHANGES TO PREVAILING RATE AFTER AWARD

SEE LABOR CODE SECTION: 1773.6

No effect once the contract notice to bidders is published.

1773.6. If during any quarterly period the Director of Industrial Relations shall determine that there has been a change in any prevailing rate of per diem wages in any locality he shall make such change available to the LCP and his determination shall be final. Such determination by the Director of Industrial Relations shall not be effective as to any contract for which the notice to bidders has been published. *Exceptions; classifications marked as a double asterisks.*

CREDITS, FOR FRINGE BENEFIT PAYMENTS

SEE CALIFORNIA CODE OF REGULATIONS: TITLE 8, GROUP3, ARTICLE 4,

16200(i) Credit Available For Actual Payment of Fringe Benefit Costs up to the Prevailing Amount. The contractor obligated to pay the full prevailing rate of per diem wages may take credit for amounts up to the total of all fringe benefit amounts listed as prevailing in the appropriate wage determination. This credit may be taken only as to amounts which are actual payments under Employer Payments Section 16000(1)-(3). In the event the total of Employer Payments by a contractor for the fringe benefits listed as prevailing is less than the aggregate amount set out as prevailing in the wage determination, the contractor must pay the difference directly to the employee. No amount of credit for payments over the aggregate amount of employer payments shall be taken nor shall any credit decrease the amount of direct payment of hourly wages of those amounts found to be prevailing for straight time or overtime wages.

And memo from the division of industrial relations dated 11-15-90.

THE RULE:

The contractor can pay amounts for individual benefits different than the state shows in the wage reports so long as it is not less than the total amount indicated for all fringe benefits.

EMPLOYEE'S SUBJECT TO PREVAILING WAGES

SEE LABOR CODE SECTION 1771, 1772 & 1776 AND SEE

1771. Except for public works projects of one thousand dollars (\$1,000) or less, not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the public work is performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work fixed as provided in this chapter, shall be paid to all workers employed on public works.

1772. Workers employed by contractors or subcontractors in the execution of any contract for public works are deemed to be employed upon public work.

1776. (a) Each contractor and subcontractor shall keep an accurate payroll record, showing the name, address, social security number, work classification, and straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection with the public work.

EMPLOYER PAYMENTS

SEE CALIFORNIA CODE OF REGULATIONS: TITLE 8, ARTICLE 1, SECTION 16000
DEFINITIONS

(1) The rate of contribution irrevocably made by a contractor or subcontractor to a trustee or to a third person pursuant to a fund, plan, or program for the benefit of employees, their families and dependents, or retirees;

(2) The rate of costs to the contractor or subcontractor which may be reasonably anticipated in providing benefits to employees, their families and dependents or to retirees pursuant to an enforceable commitment or agreement to carry out a financially responsible plan or program which was communicated in writing to the workers affected; and

(3) The rate of contribution irrevocably made by the contractor or subcontractor for apprenticeship or other training programs authorized by Section 3071 and/or 3093 of the Labor Code.

PREVAILING WAGE CONTRACTOR HANDOUT

FRINGE BENEFIT PAYMENT REQUIREMENTS

SEE CALIFORNIA CODE OF REGULATIONS: TITLE 8, GROUP 3, and ARTICLE 1, 16000 DEFINITIONS

All fringe benefits must be irrevocably paid to an authorized fund or to the employee.

No unpaid amounts are allowed.

FRINGE BENEFITS INCLUDE

CALIFORNIA CODE OF REGULATIONS: TITLE 8, ARTICLE 1, SECTION 16000. DEFINITIONS

3) The prevailing rate of employer payments for any or all programs or benefits for employees, their families and dependents, and retirees which are of the types enumerated below:

(A) medical and hospital care, prescription drugs, dental care, vision care, diagnostic services, and other health and welfare benefits;

(B) retirement plan benefits;

(C) vacations and holidays with pay, or cash payments in lieu thereof;

(D) compensation for injuries or illnesses resulting from occupational activity;

(E) life, accidental death and dismemberment, and disability or sickness and accident insurance;

(F) supplemental unemployment benefits;

(G) thrift, security savings, supplemental trust, and beneficial trust funds otherwise designated, provided all of the money except that used for reasonable administrative expenses is returned to the employees;

(H) occupational health and safety research, safety training, monitoring job hazards, and the like, as specified in the applicable collective bargaining agreement;

(I) See definition of "Employer Payments," (3).

(J) other bonafide benefits for employees, their families and dependents, or retirees as the Director may determine; and

(4) travel time and subsistence pay as provided for in Labor Code Section 1773.8.

FRINGE BENEFITS DO NOT INCLUDE

CALIFORNIA CODE OF REGULATIONS: TITLE 8, ARTICLE 1, SECTION 16000. DEFINITIONS

(b) The term "general prevailing rate of per diem wages"

does not include any employer payments for:

(1) Job related expenses other than travel time and subsistence pay;

(2) Contract administration, operation of hiring halls, grievance processing, or similar purposes except for those amounts specifically earmarked and actually used for administration of those types of employee or retiree benefit plans enumerated above;

(3) Union, organizational, professional or other dues except as they may be included in and withheld from the basic taxable hourly wage rate;

(4) Industry or trade promotion;

(5) Political contributions or activities;

(6) Any benefit for employees, their families and dependents, or retirees including any benefit enumerated above where the contractor or subcontractor is required by Federal, State, or local law to provide such benefit; or

(7) Such other payments as the Director may determine to exclude. Interested Party. When used with reference to a particular prevailing wage determination made by the Director, includes:

PAYROLL RECORDS INCLUDE

CALIFORNIA CODE OF REGULATIONS: TITLE 8, ARTICLE 1, SECTION 16000. DEFINITIONS

All time cards, cancelled checks, cash receipts, trust fund forms, books, documents, schedules, forms, reports, receipts or other evidences which reflect job assignments, work schedules by days and hours, and the disbursement by way of cash, check, or in whatever form or manner, of funds to a person(s) by job classification and/or skill pursuant to a public works project.

PREVAILING WAGE CONTRACTOR HANDOUT

PERSONS REQUIRED TO RECEIVE PREVAILING WAGES

SEE LABOR CODE SECTIONS:

1771....., shall be paid to all workers employed on public works.

1774. The contractor to whom the contract is awarded, and any subcontractor under him, shall pay not less than the specified prevailing rates of wages to all workmen employed in the execution of the contract.

LACDPW General Conditions require all workers not in a prevailing wage classification to be paid the wage most closely related to the craft or trade they are involved with.

WITHHOLDING PAYMENTS, JUSTIFICATION

SEE LABOR CODE SECTION: 1727 & 1771.5(b),(5)

SEE CALIFORNIA CODE OF REGULATIONS: TITLE 8, ARTICLE 5, and SECTION

16435(a) "Withhold" means to cease payments by the LCP on behalf of the awarding body, or others who pay on its behalf, or agents, to the general contractor. Where the violation is by a subcontractor, the general contractor shall be notified of the nature of the violation and reference made to its rights under Labor Code Section 1729.

(b) "Contracts." Except as otherwise provided by agreement, only contracts under a single master contract, or contracts entered into as stages of a single project, may be the subject of withholding.

(c) "Delinquent payroll records" means those not submitted on the date set in the contract.

(d) "Inadequate payroll records" are any one of the following:

(1) A record lacking the information required by Labor Code Section 1776;

(2) A record which contains the required information but not certified, or certified by someone not an agent of the contractor or subcontractor;

(3) A record remaining uncorrected for one payroll period, after the LCP has given the contractor notice of inaccuracies detected by audit or record review. Provided, however, that prompt correction will stop any duty to withhold if such inaccuracies do not amount to 1 percent of the entire Certified Weekly Payroll in dollar value and do not affect more than half the persons listed as workers employed on that Certified Weekly Payroll, as defined in Labor Code Section 1776 and Title 8 CCR Section 16401.

DIRECTOR OF INDUSTRIAL RELATIONS PRECEDENTIAL DECISIONS WHICH REQUIRE PREVAILING WAGES:

Decision 92-036: stands for the payment of out of state workers if they are working on California "Public Works"

Decision 93-019: stands for the payment of truck drivers removing, delivering or relocating material on a "Public Works"

Decision 94-017: stands for the payment of waste processors off site if the waste is exclusively from a "Public Works"

COURT DECISIONS:

Standard Traffic Services v. Department of Transportation (case 132667) Shasta: partners are due prevailing wages

If working on a "Public Works"

QUESTIONS. CALL RON BEAL, LABOR COMPLIANCE OFFICER (626)458-2587

PREVAILING WAGE CONTRACTOR HANDOUT

Suggested Single Project Labor Compliance Review and Enforcement Report Form

[Appendix C following 8 CCR §16434]

Awarding Body: _____

Project Name: _____

Name of Approved Labor Compliance Program: _____

Bid Advertisement Date: _____

Acceptance Date: _____

Notice of Completion Recordation Date: _____

Summary of Labor Compliance Activities

1. Contract Documents Containing Prevailing Wage Requirements (Identify)

2. Pre-job Conference(s) -- Attach list(s) of attendees and dates

3. Notification to Project Workers of Labor Compliance Program's Contact Person.
(Explain
Manner of Notification for each project work site.)

4. Certified Payroll Record Review

a. CPR's Received From:

Contractor/Subcontractor

w/e

For weeks ending ("w/e") through

b. Classifications identified in CPR's and applicable Prevailing Wage Determinations

<u>Classification</u>	<u>Determination No.</u>

5. Further investigation or audit due to CPR review, information or complaint from worker or other interested person, or other reason:

a. Independent Confirmation of CPR Data

<u>Worker Interviews</u> <u>Contractor/Subcontractor</u>	<u>(Yes/No)</u>	<u>Reconciled CPR's with Pay-</u> <u>checks or Stubs Yes/No)</u>

b. Employer Payments (Health & Welfare, Pension, Vacation/Holiday) Confirmation

<u>confirmation</u> <u>Contractor/Subcontractor</u> <u>(Yes/No)</u>	<u>Recipients of</u> <u>Employer Payments</u>	<u>Written</u> <u>Obtained</u>

c. Contributions to California Apprenticeship Council or Other Approved Apprenticeship Program

confirmation <u>Contractor/Subcontractor</u> <u>(Yes/No)</u>	Recipients of <u>Contributions</u>	Written <u>Obtained</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

d. Additional Wage Payments or Training Fund Contributions Resulting from Review of CPR's

Explanation <u>Contractor/Subcontractor</u> <u>nation</u>	Additional amounts <u>Paid to Workers</u>	Additional <u>Training</u> <u>Fund</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

* Use separate page(s) for explanation

6. Complaints Received Alleging Noncompliance with Prevailing Wage Requirements.

<u>Name of Complainant</u>	<u>Date Received</u>	<u>Resolution or Current Status</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

*Use separate page(s) to explain resolution or current status

7. Requests for Approval of Forfeiture to Labor Commissioner

Contractor/Subcontractor

Date of Request

Approved/Modified/Denied

8. Litigation Pending Under Labor Code Section 1742

Contractor/Subcontractor

DIR Case Number

9. (Check one): _____ Final report this project _____ Annual report this project

Authorized Representative for Labor Compliance Program

ATTACHMENT A

CHECKLIST OF LABOR LAW REQUIREMENTS TO REVIEW AT JOBSITE CONFERENCE MEETINGS

(Pursuant to Title 8, Section 16430 of the California Code of Regulations)

NAME (print) _____ Date _____

COMPANY _____ Phone _____

ADDRESS _____ Fax # _____

_____ School _____

SUPERINTENDENT _____ Project # _____

The federal and state labor law requirements applicable to the contract are composed of, but not limited to, the following:

1. Payment of Prevailing Wage Rates

The contractor to whom the contract is awarded and its subcontractors hired for the public works project are required to pay not less than the specified general prevailing wage rates to all workers employed in the execution of the contract.

The contractor is responsible for ascertaining and complying with all current general prevailing wage rates for crafts and any rate changes that occur during the life of the contract. Information on all prevailing wage rates and all rate changes are to be posted at the job site for all workers to view.

2. Apprentices

It is the duty of the contractor and subcontractors to employ registered apprentices on the public works project under Labor Code Section 1777.5;

3. Penalties

There are penalties required for contractor's/subcontractor's failure to pay prevailing wages and for failure to employ apprentices, including forfeitures and debarment under Labor Code Sections 1775; 1776; 1777.1; 1777.7 and 1813;

4. Certified Payroll Reports

Under Labor Code Section 1776, contractors and subcontractors are required to keep accurate payroll records showing the name, address, social security number and work classification of each employee and

owner performing work; also the straight time and overtime hours worked each day and each week, the fringe benefits, and, the actual per diem wage paid to each owner, journey person, apprentice worker or other employee hired in connection with the public works project.

Employee payroll records shall be certified and shall be made available for inspection at all reasonable hours at the principal office of the contractor/subcontractor, or shall be furnished to any employee, or his/her authorized representative on request, pursuant to Labor Code Section 1776;

Each contractor and subcontractor shall submit its weekly certified payroll reports to the Awarding Body on a monthly basis. In the event that there has been no work performed during a given week, the Certified Payroll Report shall be annotated: "No work" for that week.

Under Labor Code Section 1776(g) there are penalties required for contractor's/subcontractor's failure to maintain and submit copies of certified payroll records on request.

5. Nondiscrimination in Employment

There exist prohibitions against employment discrimination under Labor Code Sections 1735 and 1777.6, the Government Code, the Public Contracts Code, and Title VII of the Civil Rights Act of 1964;

6. Kickbacks Prohibited

Contractors and subcontractors are prohibited from recapturing wages illegally or extracting "kickbacks" from employee wages under Labor Code Section 1778;

7. Acceptance of Fees Prohibited

There exists a prohibition against contractor/subcontractor acceptance of fees for registering any person for public work under Labor Code Section 1779; or for filling work orders on public works contracts pursuant to Labor Code Section 1780;

8. Listing of Subcontractors

All prime contractors are required to list properly all subcontractors hired to perform work on the public works projects covering more than one-half of one percent, pursuant to Government Code Section 4100 et seq.;

9. Proper Licensing

Contractors are required to be licensed properly and to require that all subcontractors be properly licensed. Penalties are required for employing workers while unlicensed under Labor Code Section 1021 and under the California Contractor License Law found at Business and Professions Code Section 7000 et seq.

10. Unfair Competition Prohibited

Contractors/Subcontractors are prohibited from engaging in unfair competition as specified under Business and Professions Code Sections 17200 to 17208;

11. Workers Compensation Insurance

Labor Code Section 1861 requires that contractors and subcontractors be insured properly for Workers Compensation.

12. OSHA

Contractors and subcontractors are required to abide by the Occupational, Safety and Health laws and regulations that apply to the particular construction project.

13.

Undocumented Workers

Federal law prohibits contractors and subcontractors from hiring undocumented workers and requires contractors and subcontractors to secure proof of eligibility/citizenship from all workers.

14. Itemized Wage Statements

Contractors and subcontractors are required to provide itemized wage statements to employees under Labor Code Section 226.

In accordance with federal and state laws and with Awarding Body contract documents, the undersigned prime contractor wishes to assure the Awarding Body that it intends to comply with the above-referenced labor law requirements, fully understanding that failure to comply with the above requirements may subject it to penalties as provided above.

For the Contractor:

(Signature)

(Date)

Prime Contractor

Project Name

For the Awarding Body:

(Signature)

(Date)

STATE OF CALIFORNIA

DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF APPRENTICESHIP STANDARDS
28 CIVIC CENTER PLAZA, ROOM 525
SANTA ANA, CA 92701

TO ALL PUBLIC WORKS CONTRACTORS

Congratulations on having been awarded a public works project.

The Division of Apprenticeship Standards wishes to bring to your attention your responsibilities under California Labor Code Section 1777.5 Apprentices on Public Works. (Excerpts from California Labor Code relating to apprentices on public works. DAS-10 is attached).

Compliance with California Labor Code Section 1777.5 requires all public works contractors and subcontractors to:

- Submit contract award information within 10 days of contract award, to the applicable Joint Apprenticeship Committee, which shall include an estimate of Journeymen hours to be performed under the contract, the number of apprentices to be employed, and the approximate dates the apprentices will be employed. This information may be submitted on the attached form. DAS 140.
- Employ apprentices on the public work in a ratio to journeymen of no less than one hour of apprentices work for every five hours of labor performed by a journeyman.
- Pay the apprentice rate on public works projects only to those apprentices who are registered as defined in Labor Code Section 3077.
- Contribute to the training fund in the amount identified in the Prevailing Wage Rate publication for journeymen and apprentices. Contractors who choose not to contribute to the local training trust fund must make their contribution to the California Apprenticeship Council (CAC) at P.O. Box 420603, San Francisco, CA 94142.
- Training fund contributions to the CAC are due and payable on the 15th day of each month for work performed during the preceding month.
- Training fund contributions to the CAC shall be paid by check and shall be accompanied by a completed form CAC-2 (attached).

Failure to comply with the provisions of the Labor Code Section 1777.5 may result in the loss of the right to bid on all public works projects for a period of one to three years and the imposition of a civil penalty of \$100.00 for each calendar day of noncompliance. Contractors should provide a copy of this material to each subcontractor.

If the Division of Apprenticeship Standards can be of assistance to you, please contact our office at (714) 558-4126.

CALIFORNIA LABOR CODE
SECTIONS 1720 - 1861

SECTION 1720-1743

1720. (a) As used in this chapter, "public works" means:

- (1) Construction, alteration, demolition, installation, or repair work done under contract and paid for in whole or in part out of public funds, except work done directly by any public utility company pursuant to order of the Public Utilities Commission or other public authority. For purposes of this paragraph, "construction" includes work performed during the design and preconstruction phases of construction including, but not limited to, inspection and land surveying work.
- (2) Work done for irrigation, utility, reclamation, and improvement LACDPW, and other LACDPW of this type. "Public work" does not include the operation of the irrigation or drainage system of any irrigation or reclamation LACDPW, except as used in Section 1778 relating to retaining wages.
- (3) Street, sewer, or other improvement work done under the direction and supervision or by the authority of any officer or public body of the state, or of any political subdivision or LACDPW thereof, whether the political subdivision or LACDPW operates under a freeholder's charter or not.
- (4) The laying of carpet done under a building lease-maintenance contract and paid for out of public funds.
- (5) The laying of carpet in a public building done under contract and paid for in whole or in part out of public funds.
- (6) Public transportation demonstration projects authorized pursuant to Section 143 of the Streets and Highways Code.

(b) For purposes of this section, "paid for in whole or in part out of public funds" means all of the following:

- (1) The payment of money or the equivalent of money by the state or political subdivision directly to or on behalf of the public works contractor, subcontractor, or developer.
- (2) Performance of construction work by the state or political subdivision in execution of the project.
- (3) Transfer by the state or political subdivision of an asset of value for less than fair market price.
- (4) Fees, costs, rents, insurance or bond premiums, loans, interest rates, or other obligations that would normally be required in the execution of the contract, that are paid, reduced, charged at less than fair market value, waived, or forgiven by the state or political subdivision.
- (5) Money loaned by the state or political subdivision that is to be repaid on a contingent basis.
- (6) Credits that are applied by the state or political subdivision against repayment obligations to the state or political subdivision.

(c) Notwithstanding subdivision (b):

- (1) Private residential projects built on private property are not subject to the requirements of this chapter unless the projects are built pursuant to an agreement with a state agency, redevelopment agency, or local public housing authority.
- (2) If the state or a political subdivision requires a private developer to perform construction, alteration, demolition, installation, or repair work on a public work of improvement as a condition of regulatory approval of an otherwise private development project, and the state or political subdivision contributes no more money, or the equivalent of money, to the overall project than is required to perform this public improvement work, and the state or political subdivision maintains no proprietary interest in the overall project, then only the public improvement work shall thereby become subject to this chapter.
- (3) If the state or a political subdivision reimburses a private developer for costs that would normally be borne by the public, or provides directly or indirectly a public subsidy to a private development project that is de minimus in the context of the

project, an otherwise private development project shall not thereby become subject to the requirements of this chapter.

- (4) The construction or rehabilitation of affordable housing units for low- or moderate-income persons pursuant to paragraph (5) or (7) of subdivision (e) of Section 33334.2 of the Health and Safety Code that are paid for solely with moneys from a Low and Moderate Income Housing Fund established pursuant to Section 33334.3 of the Health and Safety Code or that are paid for by a combination of private funds and funds available pursuant to Section 33334.2 or 33334.3 of the Health and Safety Code do not constitute a project that is paid for in whole or in part out of public funds.
- (5) "Paid for in whole or in part out of public funds" does not include tax credits provided pursuant to Section 17053.49 or 23649 of the Revenue and Taxation Code.
- (6) Unless otherwise required by a public funding program, the construction or rehabilitation of privately owned residential projects is not subject to the requirements of this chapter if one or more of the following conditions are met:
 - (A) The project is a self-help housing project in which no fewer than 500 hours of construction work associated with the homes are to be performed by the homebuyers.
 - (B) The project consists of rehabilitation or expansion work associated with a facility operated on a not-for-profit basis as temporary or transitional housing for homeless persons with a total project cost of less than twenty-five thousand dollars (\$25,000).
 - (C) Assistance is provided to a household as either mortgage assistance, down payment assistance, or for the rehabilitation of a single-family home.
 - (D) The project consists of new construction, or expansion, or rehabilitation work associated with a facility developed by a nonprofit organization to be operated on a not-for-profit basis to provide emergency or transitional shelter and ancillary services and assistance to homeless adults and children. The nonprofit organization operating the project shall provide, at no profit, not less than 50 percent of the total project cost from nonpublic sources, excluding real property that is transferred or leased. Total project cost includes the value of donated labor, materials, architectural, and engineering services.
 - (E) The public participation in the project that would otherwise meet the criteria of subdivision (b) is public funding in the form of below-market interest rate loans for a project in which occupancy of at least 40 percent of the units is restricted for at least 20 years, by deed or regulatory agreement, to individuals or families earning no more than 80 percent of the area median income.

- (d) Notwithstanding any provision of this section to the contrary, the following projects shall not, solely by reason of this section, be subject to the requirements of this chapter:

- (1) Qualified residential rental projects, as defined by Section 142 (d) of the Internal Revenue Code, financed in whole or in part through the issuance of bonds that receive allocation of a portion of the state ceiling pursuant to Chapter 11.8 of Division 1 (commencing with Section 8869.80) of the Government Code on or before December 31, 2003.
 - (2) Single-family residential projects financed in whole or in part through the issuance of qualified mortgage revenue bonds or qualified veterans' mortgage bonds, as defined by Section 143 of the Internal Revenue Code, or with mortgage credit certificates under a Qualified Mortgage Credit Certificate Program, as defined by Section 25 of the Internal Revenue Code, that receive allocation of a portion of the state ceiling pursuant to Chapter 11.8 of Division 1 (commencing with Section 8869.80) of the Government Code on or before December 31, 2003.
 - (3) Low-income housing projects that are allocated federal or state low-income housing tax credits pursuant to Section 42 of the Internal Revenue Code, Chapter 3.6 of Division 31 (commencing with Section 50199.4) of the Health and Safety Code, or Section 12206, 17058, or 23610.5 of the Revenue and Taxation Code, on or before December 31, 2003.

- (e) If a statute, other than this section, or a regulation, other than a regulation adopted pursuant to this section, or an ordinance or a contract applies this chapter to a project, the exclusions set forth in subdivision (d) do not apply to that project.
- (f) For purposes of this section, references to the Internal Revenue Code means the Internal Revenue Code of 1986, as amended, and includes the corresponding predecessor sections of the Internal Revenue Code of 1954, as amended.
- (g) The amendments made to this section by either Chapter 938 of the Statutes of 2001 or the act adding this subdivision shall not be construed to preempt local ordinances requiring the payment of prevailing wages on housing projects.

1720.2. For the limited purposes of Article 2 (commencing with Section 1770) of this chapter, “public works” also means any construction work done under private contract when all of the following conditions exist:

- (a) The construction contract is between private persons.
- (b) The property subject to the construction contract is privately owned, but upon completion of the construction work, more than 50 percent of the assignable square feet of the property is leased to the state or a political subdivision for its use.
- (c) Either of the following conditions exist:
 - (1) The lease agreement between the lessor and the state or political subdivision, as lessee, was entered into prior to the construction contract.
 - (2) The construction work is performed according to plans, specifications, or criteria furnished by the state or political subdivision, and the lease agreement between the lessor and the state or political subdivision, as lessee, is entered into during, or upon completion of, the construction work.

1720.3. For the limited purposes of Article 2 (commencing with Section 1770), “public works” also means the hauling of refuse from a public works site to an outside disposal location, with respect to contracts involving any state agency, including the California State University and the University of California, or any political subdivision of the state.

1720.4. (a) This chapter shall not apply to any of the following work:

(1) Any work performed by a volunteer. For purposes of this section, “volunteer” means an individual who performs work for civic, charitable, or humanitarian reasons for a public agency or corporation qualified under Section 501(c)(3) of the Internal Revenue Code as a tax-exempt organization, without promise, expectation, or receipt of any compensation for work performed.

(A) An individual shall be considered a volunteer only when his or her services are offered freely and without pressure and coercion, direct or implied, from an employer.

(B) An individual may receive reasonable meals, lodging, transportation, and incidental expenses or nominal nonmonetary awards without losing volunteer status if, in the entire context of the situation, those benefits and payments are not a substitute form of compensation for work performed.

(C) An individual shall not be considered a volunteer if the person is otherwise employed for compensation at any time (i) in the construction, alteration, demolition, installation, repair, or maintenance work on the same project, or (ii) by a contractor, other than a corporation qualified under Section 501(c)(3) of the Internal Revenue Code as a tax-exempt organization, that is receiving payment to perform construction, alteration, demolition, installation, repair, or maintenance work on the same project.

(2) Any work performed by a volunteer coordinator. For purposes of this section, “volunteer coordinator” means an individual paid by a corporation qualified under Section 501(C)(3) of the Internal Revenue Code as a tax-exempt organization, to oversee or supervise volunteers. An individual may be considered a volunteer coordinator even if the individual performs some nonsupervisory work on a project alongside the volunteers, so long as the individual’s primary responsibility on the project is to oversee or supervise the volunteers rather than to perform nonsupervisory work.

(3) Any work performed by members of the California Conservation Corps or of Community Conservation Corps certified by the California Conservation Corps pursuant to Section 14507.5 of the Public Resources Code.

(b) This section shall apply retroactively to otherwise covered work concluded on or after January 1, 2002, to the extent permitted by law.

(c) On or before January 1, 2011, the director shall submit a written report to the Legislature that does both of the following:

(1) Describes the number and the nature of complaints received and investigations conducted involving the use of volunteers on public works projects subject to this chapter, that are projects as described in Section 21190 of the Public Resources Code.

(2) Provides an estimate of each of the following as they relate to public works projects that involve the acquisition, presentation, or restoration of natural areas, including parks or ecological reserves, or other public works projects that have one or more of the purposes, as described in Section 21190 of the Public Resources Code:

(A) The number of hours per year that volunteers work on public works projects.

(B) The cost per year of public works projects, that are projects as described in Section 21190 of the Public Resources Code, and the percentage of work performed by volunteers.

(C) The types of work done by volunteers on public works projects, that are projects as described in Section 21190 of the Public Resources Code.

(d) The sum of one hundred thousand dollars (\$100,000) is hereby appropriated from the Environmental License Plate Fund for the purposes of funding the report required pursuant to subdivision (C)

(e) This section shall remain in effect only until January 1, 2012, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2012, deletes or extends that date.

1721. "Political subdivision" includes any county, city, LACDPW, public housing authority, or public agency of the state, and assessment..

1722. "Awarding body" or "body awarding the contract" means department, board, authority, officer or agent awarding a contract for public work.

1722.1. For the purposes of this chapter, "contractor" and "subcontractor" include a contractor, subcontractor, licensee, officer, agent, or representative thereof, acting in that capacity, when working on public works pursuant to this article and Article 2 (commencing with Section 1770).

1723. "Worker" includes laborer, worker, or mechanic.

1724. "Locality in which public work is performed" means the county in which the public work is done in cases in which the contract is awarded by the State, and means the limits of the political subdivision on whose behalf the contract is awarded in other cases.

1725. "Alien" means any person who is not a born or fully naturalized citizen of the United States.

1726. (a) The body awarding the contract for public work shall take cognizance of violations of this chapter committed in the course of the execution of the contract, and shall promptly report any suspected violations to the Labor Commissioner.

(b) If the awarding body determines as a result of its own investigation that there has been a violation of this chapter and withholds contract payments, the procedures in Section 1771.6 shall be followed.

(c) A contractor may bring an action in a court of competent jurisdiction to recover from an awarding body the difference between the wages actually paid to an employee and the wages that were required to be paid to an employee under this

chapter, any penalties required to be paid under this chapter, and costs and attorney's fees related to this action, if either of the following is true:

- (1) The awarding body previously affirmatively represented to the contractor in writing, in the call for bids, or otherwise, that the work to be covered by the bid or contract was not a "public work," as defined in this chapter.
- (2) The awarding body received actual written notice from the Department of Industrial Relations that the work to be covered by the bid or contract is a "public work," as defined in this chapter, and failed to disclose that information to the contractor before the bid opening or awarding of the contract.

- 1727.** (a) Before making payments to the contractor of money due under a contract for public work, the awarding body shall withhold and retain there from all amounts required to satisfy any civil wage and penalty assessment issued by the Labor Commissioner under this chapter. The amounts required to satisfy a civil wage and penalty assessment shall not be disbursed by the awarding body until receipt of a final order that is no longer subject to judicial review.
- (b) If the awarding body has not retained sufficient money under the contract to satisfy a civil wage and penalty assessment based on a subcontractor's violations, the contractor shall, upon the request of the Labor Commissioner, withhold sufficient money due the subcontractor under the contract to satisfy the assessment and transfer the money to the awarding body. These amounts shall not be disbursed by the awarding body until receipt of a final order that is no longer subject to judicial review.

1728. In cases of contracts with assessment or improvement LACDPW where full payment is made in the form of a single warrant, or other evidence of full payment, after completion and acceptance of the work, the awarding body shall accept from the contractor in cash a sum equal to, and in lieu of, any amount required to be withheld, retained, or forfeited under the provisions of this section, and said awarding body shall then release the final warrant or payment in full.

1729. It shall be lawful for any contractor to withhold from any subcontractor under him sufficient sums to cover any penalties withheld from him by the awarding body on account of the subcontractor's failure to comply with the terms of this chapter, and if payment has already been made to the subcontractor the contractor may recover from him the amount of the penalty or forfeiture in a suit at law.

1734. Any court collecting any fines or penalties under the criminal provisions of this chapter or any of the labor laws pertaining to public works shall as soon as practicable after the receipt thereof deposit same with the county treasurer of the county in which such court is situated. Amounts so deposited shall be paid at least once a month by warrant of the county auditor drawn upon requisition of the judge or clerk of said court, to the State Treasurer for deposit in the General Fund.

1735. A contractor shall not discriminate in the employment of persons upon public works on any basis listed in subdivision (a) of Section 12940 of the Government Code, as those bases are defined in Sections 12926 and 12926.1 of the Government Code, except as otherwise provided in Section 12940 of the Government Code. Every contractor for public works who violates this section is subject to all the penalties imposed for a violation of this chapter.

1736. During any investigation conducted under this part, the Division of Labor Standards Enforcement shall keep confidential the name of any employee who reports a violation of this chapter and any other information that may identify the employee.

1740. Notwithstanding any other provision of this chapter or any other law of this State, except limitations imposed by the Constitution, the legislative body of a political subdivision which has received or is to receive a loan or grant of funds from the Federal Government or a federal department or agency for public works of that political subdivision, may provide in its call for bids in connection with such public works that all bid specifications and contracts and other procedures in connection with bids or contracts shall be subject to modification to

comply with revisions in federal minimum wage schedules without the necessity of republication or duplication of other formal statutory requirements.

- 1741.** (a) If the Labor Commissioner or his or her designee determines after an investigation that there has been a violation of this chapter, the Labor Commissioner shall with reasonable promptness issue a civil wage and penalty assessment to the contractor or subcontractor or both. The assessment shall be in writing and shall describe the nature of the violation and the amount of wages, penalties, and forfeitures due and shall include the basis for the assessment. The assessment shall be served not later than 180 days after the filing of a valid notice of completion in the office of the county recorder in each county in which the public work or some part thereof was performed, or not later than 180 days after acceptance of the public work, whichever occurs last. However, if the assessment is served after the expiration of this 180-day period, but before the expiration of an additional 180 days, and the awarding body has not yet made full payment to the contractor, the assessment is valid up to the amount of the funds retained. Service of the assessment shall be completed pursuant to Section 1013 of the Code of Civil Procedure by first-class and certified mail to the contractor, subcontractor, and awarding body. The assessment shall advise the contractor and subcontractor of the procedure for obtaining review of the assessment. The Labor Commissioner shall, to the extent practicable, ascertain the identity of any bonding company issuing a bond that secures the payment of wages covered by the assessment and any surety on a bond, and shall serve a copy of the assessment by certified mail to the bonding company or surety at the same time service is made to the contractor, subcontractor, and awarding body. However, no bonding company or surety shall be relieved of its responsibilities because it failed to receive notice from the Labor Commissioner.
- (b) Interest shall accrue on all due and unpaid wages at the rate described in subdivision (b) of Section 3289 of the Civil Code. The interest shall accrue from the date that the wages were due and payable, as provided in Part 7 (commencing with Section 1720) of Division 2, until the wages are paid.
- (c) (1) The Labor Commissioner shall maintain a public list of the names of each contractor and subcontractor who has been found to have committed a willful violation of Section 1775 or to whom a final order, which is no longer subject to judicial review, has been issued.
- (2) The list shall include the date of each assessment, the amount of wages and penalties assessed, and the amount collected.
- (3) The list shall be updated at least quarterly, and the contractor's or subcontractor's name shall remain on that list until the assessment is satisfied, or for a period of three years beginning from the date of the issuance of the assessment, whichever is later.

- 1742.** (a) An affected contractor or subcontractor may obtain review of a civil wage and penalty assessment under this chapter by transmitting a written request to the office of the Labor Commissioner that appears on the assessment within 60 days after service of the assessment. If no hearing is requested within 60 days after service of the assessment, the assessment shall become final.

- (b) Upon receipt of a timely request, a hearing shall be commenced within 90 days before the director, who shall appoint an impartial hearing officer possessing the qualifications of an administrative law judge pursuant to subdivision (b) of Section 11502 of the Government Code. The appointed hearing officer shall be an employee of the department, but shall not be an employee of the Division of Labor Standards Enforcement. The contractor or subcontractor shall be provided an opportunity to review evidence to be utilized by the Labor Commissioner at the hearing within 20 days of the receipt of the written request for a hearing. Any evidence obtained by the Labor Commissioner subsequent to the 20-day cutoff shall be promptly disclosed to the contractor or subcontractor.

The contractor or subcontractor shall have the burden of proving that the basis for the civil wage and penalty assessment is incorrect. The assessment shall be sufficiently detailed to provide fair notice to the contractor or subcontractor of the issues at the hearing.

Within 45 days of the conclusion of the hearing, the director shall issue a written decision affirming, modifying, or dismissing the assessment. The decision of the director shall

consist of a notice of findings, findings, and an order. This decision shall be served on all parties and the awarding body pursuant to Section 1013 of the Code of Civil Procedure by first-class mail at the last known address of the party on file with the Labor Commissioner. Within 15 days of the issuance of the decision, the director may reconsider or modify the decision to correct an error, except that a clerical error may be corrected at any time.

The director shall adopt regulations setting forth procedures for hearings under this subdivision.

- (c) An affected contractor or subcontractor may obtain review of the decision of the director by filing a petition for a writ of mandate to the appropriate superior court pursuant to Section 1094.5 of the Code of Civil Procedure within 45 days after service of the decision. If no petition for writ of mandate is filed within 45 days after service of the decision, the order shall become final. If it is claimed in a petition for writ of mandate that the findings are not supported by the evidence, abuse of discretion is established if the court determines that the findings are not supported by substantial evidence in the light of the whole record.
- (d) A certified copy of a final order may be filed by the Labor Commissioner in the office of the clerk of the superior court in any county in which the affected contractor or subcontractor has property or has or had a place of business. The clerk, immediately upon the filing, shall enter judgment for the state against the person assessed in the amount shown on the certified order.
- (e) A judgment entered pursuant to this section shall bear the same rate of interest and shall have the same effect as other judgments and shall be given the same preference allowed by law on other judgments rendered for claims for taxes. The clerk shall not charge for the service performed by him or her pursuant to this section.
- (f) An awarding body that has withheld funds in response to a civil wage and penalty assessment under this chapter shall, upon receipt of a certified copy of a final order that is no longer subject to judicial review, promptly transmit the withheld funds, up to the amount of the certified order, to the Labor Commissioner.
- (g) This section shall provide the exclusive method for review of a civil wage and penalty assessment by the Labor Commissioner under this chapter or the decision of an awarding body to withhold contract payments pursuant to Section 1771.5.

1742.1. (a) After 60 days following the service of a civil wage and penalty assessment under Section 1741 or a notice of withholding under subdivision (a) of Section 1771.6, the affected contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the assessment or notice shall be liable for liquidated damages in an amount equal to the wages, or portion thereof, that still remain unpaid. If the assessment or notice subsequently is overturned or modified after administrative or judicial review, liquidated damages shall be payable only on the wages found to be due and unpaid. Additionally, if the contractor or subcontractor demonstrates to the satisfaction of the director that he or she had substantial grounds for appealing the assessment or notice with respect to a portion of the unpaid wages covered by the assessment or notice, the director may exercise his or her discretion to waive payment of the liquidated damages with respect to that portion of the unpaid wages. Any liquidated damages shall be distributed to the employee along with the unpaid wages. Section 203.5 shall not apply to claims for prevailing wages under this chapter.

- (b) Notwithstanding subdivision (a), there shall be no liability for liquidated damages if the full amount of the assessment or notice, including penalties, has been deposited with the Department of Industrial Relations, within 60 days following service of the assessment or notice, for the department to hold in escrow pending administrative and judicial review. The department shall release such funds, plus any interest earned, at the conclusion of all administrative and judicial review to the persons and entities who are found to be entitled to such funds.
- (c) The Labor Commissioner shall, upon receipt of a request from the affected contractor or subcontractor within 30 days following the service of a civil wage and penalty assessment under Section 1741, afford the contractor or subcontractor the opportunity to meet with

the Labor Commissioner or his or her designee to attempt to settle a dispute regarding the assessment without the need for formal proceedings. The awarding body shall, upon receipt of a request from the affected contractor or subcontractor within 30 days following the service of a notice of withholding under subdivision (a) of Section 1771.6, afford the contractor or subcontractor the opportunity to meet with the designee of the awarding body to attempt to settle a dispute regarding the notice without the need for formal proceedings. The settlement meeting may be held in person or by telephone and shall take place before the expiration of the 60-day period for seeking administrative review. No evidence of anything said or any admission made for the purpose of, in the course of, or pursuant to, the settlement meeting is admissible or subject to discovery in any administrative or civil proceeding. No writing prepared for the purpose of, in the course of, or pursuant to, the settlement meeting, other than a final settlement agreement, is admissible or subject to discovery in any administrative or civil proceeding. The assessment or notice shall advise the contractor or subcontractor of the opportunity to request a settlement meeting.

(d) This section shall become operative on January 1, 2007.

- 1743.** (a) The contractor and subcontractor shall be jointly and severally liable for all amounts due pursuant to a final order under this chapter or a judgment thereon. The Labor Commissioner shall first exhaust all reasonable remedies to collect the amount due from the subcontractor before pursuing the claim against the contractor.
- (b) From the amount collected, the wage claim shall be satisfied prior to the amount being applied to penalties. If insufficient money is recovered to pay each worker in full, the money shall be prorated among all workers.
- (c) Wages for workers who cannot be located shall be placed in the Industrial Relations Unpaid Wage Fund and held in trust for the workers pursuant to Section 96.7. Penalties shall be paid into the General Fund.
- (d) A final order under this chapter or a judgment thereon shall be binding, with respect to the amount found to be due, on a bonding company issuing a bond that secures the payment of wages and a surety on a bond. The limitations period of any action on a payment bond shall be tolled pending a final order that is no longer subject to judicial review.

LABOR

CODE

SECTION 1750

- 1750.** (a) (1) The second lowest bidder, and any person, firm, association, trust, partnership, labor organization, corporation, or other legal entity which has, prior to the letting of the bids on the public works project in question, entered into a contract with the second lowest bidder, that suffers damage as a proximate result of a competitive bid for a public works project, as defined in subdivision (b), not being accepted due to the successful bidder's violation, as evidenced by the conviction of the successful bidder therefore, of any provision of Division 4 (commencing with Section 3200) or of the Unemployment Insurance Code, may bring an action for damages in the appropriate state court against the violating person or legal entity.
- (2) There shall be a rebuttable presumption that a successful bidder who has been convicted of a violation of any provision of Division 4 (commencing with Section 3200) of this code or of the Unemployment Insurance Code, or of both, was awarded the bid because that successful bidder was able to lower the bid due to this violation or these violations occurring on the contract for public work awarded by the public agency.
- (b) For purposes of this article:
- (1) "Public works project" means the construction, repair, remodeling, alteration, conversion, modernization, improvement, rehabilitation, replacement, or renovation of a public building or structure.
- (2) "Second lowest bidder" means the second lowest qualified bidder deemed responsive by the public agency awarding the contract for public work.

- (3) The "second lowest bidder" and the "successful bidder" may include any person, firm, association, corporation, or other legal entity.
- (c) In an action brought pursuant to this section, the court may award costs and reasonable attorney's fees, in an amount to be determined in the court's discretion, to the prevailing party.
- (d) For purposes of an action brought pursuant to this section, employee status shall be determined pursuant to Division 4 (commencing with Section 3200) with respect to alleged violations of that division, pursuant to the Unemployment Insurance Code with respect to alleged violations of that code, and pursuant to Section 2750.5 with respect to alleged violations of either Division 4 (commencing with Section 3200) or of the Unemployment Insurance Code.
- (e) The right of action established pursuant to this article shall not be construed to diminish rights of action established pursuant to Section 19102 of, and Article 1.8 (commencing with Section 20104.70) of Chapter 1 of Part 3 of Division 2 of, the Public Contract Code.
- (f) A second lowest bidder who has been convicted of a violation of any provision of Division 4 (commencing with Section 3200) of the Labor Code or of the Unemployment Insurance Code, or both, within one year prior to filing the bid for public work, and who has failed to take affirmative steps to correct that violation or those violations, is prohibited from taking any action authorized by this section.

LABOR

CODE

SECTION 1770-1781

1770. The Director of the Department of Industrial Relations shall determine the general prevailing rate of per diem wages in accordance with the standards set forth in Section 1773.4. Nothing in this article, however, shall prohibit the payment of more than the general prevailing rate of wages to any workman employed on public work. Nothing in this act shall permit any overtime work in violation of Article 3 of this chapter.

1771. Except for public works projects of one thousand dollars (\$1,000) or less, not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the public work is performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work fixed as provided in this chapter, shall be paid to all workers employed on public works. This section is applicable only to work performed under contract, and is not applicable to work carried out by a public agency with its own forces. This section is applicable to contracts let for maintenance work.

1771.2. A joint labor-management committee established pursuant to the federal Labor Management Cooperation Act of 1978 (Section 175a of Title 29 of the United States Code) may bring an action in any court of competent jurisdiction against an employer that fails to pay the prevailing wage to its employees, as required by this article. This action shall be commenced not later than 180 days after the filing of a valid notice of completion in the office of the county recorder in each county in which the public work or some part thereof was performed, or not later than 180 days after acceptance of the public work, whichever last occurs.

1771.5. (a) Notwithstanding Section 1771, an awarding body may not require the payment of the general prevailing rate of per diem wages or the general prevailing rate of per diem wages for holiday and overtime work for any public works project of twenty-five thousand dollars (\$25,000) or less when the project is for construction work, or for any public works project of fifteen thousand dollars (\$15,000) or less when the project is for alteration, demolition, repair, or maintenance work, if the awarding body elects to initiate and

- enforce a labor compliance program pursuant to subdivision (b) for every public works project under the authority of the awarding body.
- (b) For the purposes of this section, a labor compliance program shall include, but not be limited to, the following requirements:
 - (1) All bid invitations and public works contracts shall contain appropriate language concerning the requirements of this chapter.
 - (2) A pre-job conference shall be conducted with the contractor and subcontractors to discuss federal and state labor law requirements applicable to the contract.
 - (3) Project contractors and subcontractors shall maintain and furnish, at a designated time, a certified copy of each weekly payroll containing a statement of compliance signed under penalty of perjury.
 - (4) The awarding body shall review, and, if appropriate, audit payroll records to verify compliance with this chapter.
 - (5) The awarding body shall withhold contract payments when payroll records are delinquent or inadequate.
 - (6) The awarding body shall withhold contract payments equal to the amount of underpayment and applicable penalties when, after investigation, it is established that underpayment has occurred.
 - (c) For purposes of this chapter, "labor compliance program" means a labor compliance program that is approved, as specified in state regulations, by the Director of the Department of Industrial Relations.
 - (d) For purposes of this chapter, the Director of the Department of Industrial Relations may revoke the approval of a labor compliance program in the manner specified in state regulations.

1771.6. (a) Any awarding body that enforces this chapter in accordance with Section 1726 or 1771.5 shall provide notice of the withholding of contract payments to the contractor and subcontractor, if applicable. The notice shall be in writing and shall describe the nature of the violation and the amount of wages, penalties, and forfeitures withheld. Service of the notice shall be completed pursuant to Section 1013 of the Code of Civil Procedure by first-class and certified mail to the contractor and subcontractor, if applicable. The notice shall advise the contractor and subcontractor, if applicable, of the procedure for obtaining review of the withholding of contract payments.

The awarding body shall also serve a copy of the notice by certified mail to any bonding company issuing a bond that secures the payment of wages covered by the notice and to any surety on a bond, if their identities are known to the awarding body.

- (b) The withholding of contract payments in accordance with Section 1726 or 1771.5 shall be reviewable under Section 1742 in the same manner as if the notice of the withholding was a civil penalty order of the Labor Commissioner under this chapter. If review is requested, the Labor Commissioner may intervene to represent the awarding body.
 - (c) Pending a final order, or the expiration of the time period for seeking review of the notice of the withholding, the awarding body shall not disburse any contract payments withheld.
 - (d) From the amount recovered, the wage claim shall be satisfied prior to the amount being applied to penalties. If insufficient money is recovered to pay each worker in full, the money shall be prorated among all workers.
 - (e) Wages for workers who cannot be located shall be placed in the Industrial Relations Unpaid Wage Fund and held in trust for the workers pursuant to Section 96.7. Penalties shall be paid into the General Fund of the awarding body that has enforced this chapter pursuant to Section 1771.5.

- 1771.7.** (a) (1) An awarding body that chooses to use funds derived from either the Kindergarten-University Public Education Facilities Bond Act of 2002 or the Kindergarten-University Public Education Facilities Bond Act of 2004 for a public works project, shall initiate and enforce, or contract with a third party to initiate and enforce, a labor compliance program, as described in subdivision (b) of Section 1771.5, with respect to that public works project (2) If an awarding body described in paragraph (1) chooses to contract with a third party to initiate and enforce a labor compliance program for a project described in paragraph (1), that third party shall not review the payroll records of its own employees or the employees of its subcontractors, and the awarding body or an independent third party shall review these payroll records for purposes of the labor compliance program.
- (b) This section applies to public works that commence on or after April 1, 2003. For purposes of this subdivision, work performed during the design and preconstruction phases of construction, including, but not limited to, inspection and land surveying work, does not constitute the commencement of a public work.
- (c) (1) For purposes of this section, if any campus of the California State University chooses to use the funds described in subdivision (a), then the "awarding body" is the Chancellor of the California State University. For purposes of this subdivision, if the chancellor is required by subdivision (a) to initiate and enforce, or to contract with a third party to initiate and enforce, the labor compliance program described in that subdivision, then in addition to the requirements imposed upon an awarding body by subdivision (b) of Section 1771.5, the Chancellor of the California State University shall review the payroll records described in paragraphs (3) and (4) of subdivision (b) of Section 1771.5 on at least a monthly basis to ensure the awarding body's compliance with the labor compliance program.
- (2) For purposes of this subdivision, if an awarding body described in subdivision (a) is the University of California or any campus of that university, and that awarding body is required by subdivision (a) to initiate and enforce, or to contract with a third party to initiate and enforce, the labor compliance program described in that subdivision, then in addition to the requirements imposed upon an awarding body by subdivision (b) of Section 1771.5, the payroll records described in paragraphs (3) and (4) of subdivision (b) of Section 1771.5 shall be reviewed on at least a monthly basis to ensure the awarding body's compliance with the labor compliance program.
- (d) (1) An awarding body described in subdivision (a) shall make a written finding that the awarding body has initiated and enforced, or has contracted with a third party to initiate and enforce, the labor compliance program described in subdivision (a).
- (2) (A) If an awarding body described in subdivision (a) is a school district, the governing body of that school district shall transmit to the State Allocation Board, in the manner determined by that board, a copy of the finding described in paragraph (1).
- (B) The State Allocation Board may not release the funds described in subdivision (a) to an awarding body that is a school district until the State Allocation Board has received the written finding described in paragraph (1).
- (c) If the State Allocation Board conducts a post award audit procedure with respect to an award of the funds described in subdivision (a) to an awarding body that is a school district, the State Allocation Board shall verify, in the manner determined by that board, that the school district has complied with the requirements of this subdivision.
- (3) If an awarding body described in subdivision (a) is a community college district, the Chancellor of the California State University, or the office of the President of the University of California or any campus of the University of California, that awarding body shall transmit, in the manner determined by the Director of the Department of Industrial Relations, a copy of the finding described in paragraph (1) to the director of that department, or the director of any successor agency that is responsible for the oversight of employee wage and employee work hours laws.

- (e) Notwithstanding Section 17070.63 of the Education Code, for purposes of this act, the State Allocation Board shall increase the grant amounts as described in Chapter 12.5 (commencing with Section 17070.10) of Part 10 of Division 1 of Title 1 of the Education Code to accommodate the state's share of the increased costs of a new construction or modernization project due to the initiation and enforcement of the labor compliance program.

1771.8. (a) The body awarding any contract for a public works project financed in any part with funds made available by the Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002 (Division 26.5 (commencing with Section 79500) of the Water Code) shall adopt and enforce, or contract with a third party to adopt and enforce, a labor compliance program pursuant to subdivision (b) of Section 1771.5 for application to that public works project.

- (b) This section shall become operative only if the Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002 (Division 26.5 (commencing with Section 79500) of the Water Code) is approved by the voters at the November 5, 2002, statewide general election.

1771.9. (a) The body awarding any contract for a public works project financed in any part with funds made available by the Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century (Chapter 20 (commencing with Section 2704) of Division 3 of the Streets and Highways Code) shall adopt and enforce, or contract with a third party to adopt and enforce, a labor compliance program pursuant to subdivision (b) of Section 1771.5 for application to that public works project.

- (b) This section shall become operative only if the Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century (Chapter 20 (commencing with Section 2704) of Division 3 of the Streets and Highways Code) is approved by the voters at the November 2, 2004, statewide general election.

- (c) The Department of Industrial Relations' and the Labor and Workforce Development Agency's public works services provided to labor compliance programs, interested parties, and awarding bodies associated with bond funding projects, that are governed by the public works requirements of this chapter, are to be supported as costs of a state agency with responsibility for administration of the bond program, or costs of construction, under subdivisions (a) and (d) of Section 16727 of the Government Code. Public works services under this chapter include all of the following:

- (1) Prevailing wage measurement and setting.
- (2) Wage petitions and special determinations.
- (3) Coverage advice and determinations training for and approval of, labor compliance programs' establishment and enforcement notices to withhold.
- (4) Civil wage and penalty assessments.
- (5) Hearings in response to contractor requests under subdivision (b) of Section 1171.6, Section 1742, and Section 1777.7.

1772. Workers employed by contractors or subcontractors in the execution of any contract for public work are deemed to be employed upon public work.

1773. The body awarding any contract for public work, or otherwise undertaking any public work, shall obtain the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in the locality in which the public work is to be performed for each craft, classification, or type of worker needed to execute the contract from the Director of Industrial Relations. The holidays upon which those rates shall be paid need not be specified by the awarding body, but shall be all holidays recognized in the applicable collective bargaining agreement. If the prevailing rate is not based on a collectively bargained rate, the holidays upon which the prevailing rate shall be paid shall be as provided in Section 6700 of the Government Code.

In determining the rates, the Director of Industrial Relations shall ascertain and consider the applicable wage rates established by collective bargaining agreements and the rates that may have been predetermined for federal public works, within the locality and in the nearest labor market area. Where the rates do not constitute the rates actually prevailing in the locality, the director shall obtain and consider further data from the labor organizations and employers or employer associations concerned, including the recognized collective bargaining representatives for the particular craft, classification, or type of work involved. The rate fixed for each craft, classification, or type of work shall be not less than the prevailing rate paid in the craft, classification, or type of work.

If the director determines that the rate of prevailing wage for any craft, classification, or type of worker is the rate established by a collective bargaining agreement, the director may adopt that rate by reference as provided for in the collective bargaining agreement and that determination shall be effective for the life of the agreement or until the director determines that another rate should be adopted.

- 1773.1.** (a) Per diem wages, when the term is used in this chapter or in any other statute applicable to public works, shall be deemed to include employer payments for the following:
- (1) Health and welfare.
 - (2) Pension.
 - (3) Vacation.
 - (4) Travel.
 - (5) Subsistence.
 - (6) Apprenticeship or other training programs authorized by Section 3093, so long as the cost of training is reasonably related to the amount of the contributions.
 - (7) Worker protection and assistance programs or committees established under the federal Labor Management Cooperation Act of 1978 (Section 175a of Title 29 of the United States Code), to the extent that the activities of the programs or committees are directed to the monitoring and enforcement of laws related to public works.
 - (8) Industry advancement and collective bargaining agreements administrative fees, provided that these payments are required under a collective bargaining agreement pertaining to the particular craft, classification, or type of work within the locality or the nearest labor market area at issue.
 - (9) Other purposes similar to those specified in paragraphs (1) to (8), inclusive.
- (b) Employer payments include all of the following:
- (1) The rate of contribution irrevocably made by the employer to a trustee or third person pursuant to a plan, fund, or program.
 - (2) The rate of actual costs to the employer reasonably anticipated in providing benefits to workers pursuant to an enforceable commitment to carry out a financially responsible plan or program communicated in writing to the workers affected.
 - (3) Payments to the California Apprenticeship Council pursuant to Section 1777.5.
- (c) Employer payments are a credit against the obligation to pay the general prevailing rate of per diem wages. However, no credit shall be granted for benefits required to be provided by other state or federal law. Credits for employer payments also shall not reduce the obligation to pay the hourly straight time or overtime wages found to be prevailing.
- (d) The credit for employer payments shall be computed on an annualized basis where the employer seeks credit for employer payments that are higher for public works projects than for private construction performed by the same employer, except where one or more of the following occur:
- (1) The employer has an enforceable obligation to make the higher rate of payments on future private construction performed by the employer.
 - (2) The higher rate of payments is required by a project labor agreement.
 - (3) The payments are made to the California Apprenticeship Council pursuant to Section 1777.5.

- (4) The director determines that annualization would not serve the purposes of this chapter.
- (e) (1) For the purpose of determining those per diem wages for contracts, the representative of any craft, classification, or type of worker needed to execute contracts shall file with the Department of Industrial Relations fully executed copies of the collective bargaining agreements for the particular craft, classification, or type of work involved. The collective bargaining agreements shall be filed after their execution and thereafter may be taken into consideration pursuant to Section 1773 whenever filed 30 days prior to the call for bids. If the collective bargaining agreement has not been formalized, a typescript of the final draft may be filed temporarily, accompanied by a statement under penalty of perjury as to its effective date.
- (2) Where a copy of the collective bargaining agreement has previously been filed, fully executed copies of all modifications and extensions of the agreement that affect per diem wages or holidays shall be filed.
- (3) The failure to comply with filing requirements of this subdivision shall not be grounds for setting aside a prevailing wage determination if the information taken into consideration is correct.

1773.2. The body awarding any contract for public work, or otherwise undertaking any public work, shall specify in the call for bids for the contract, and in the bid specifications and in the contract itself, what the general rate of per diem wages is for each craft, classification, or type of worker needed to execute the contract.

In lieu of specifying the rate of wages in the call for bids, and in the bid specifications and in the contract itself, the awarding body may, in the call for bids, bid specifications, and contract, include a statement that copies of the prevailing rate of per diem wages are on file at its principal office, which shall be made available to any interested party on request. The awarding body shall also cause a copy of the determination of the director of the prevailing rate of per diem wages to be posted at each job site.

1773.3. An awarding agency whose public works contract falls within the jurisdiction of Section 1777.5 shall, within five days of the award, send a copy of the award to the Division of Apprenticeship Standards. When specifically requested by a local joint apprenticeship committee, the division shall notify the local joint apprenticeship committee regarding all such awards applicable to the joint apprenticeship committee making the request. Within five days of a finding of any discrepancy regarding the ratio of apprentices to journeymen, pursuant to the certificated fixed number of apprentices to journeymen, the awarding agency shall notify the Division of Apprenticeship Standards.

1773.4. Any prospective bidder or his representative, any representative of any craft, classification or type of workman involved, or the awarding body may, within 20 days after commencement of advertising of the call for bids by the awarding body, file with the Director of Industrial Relations a verified petition to review the determination of any such rate or rates upon the ground that they have not been determined in accordance with the provision of Section 1773 of this code. Within two days thereafter, a copy of such petition shall be filed with the awarding body. The petition shall set forth the facts upon which it is based. The Director of Industrial Relations or his authorized representative shall, upon notice to the petitioner, the awarding body and such other persons as he deems proper, including the recognized collective bargaining representatives for the particular crafts, classifications or types of work involved, institute an investigation or hold a hearing. Within 20 days after the filing of such petition, or within such longer period as agreed upon by the director, the awarding body, and all the interested parties, he shall make a determination and transmit the same in writing to the awarding body and to the interested parties.

Such determination shall be final and shall be the determination of the awarding body. Upon receipt by it of the notice of the filing of such petition the body awarding the contract or authorizing the public work shall extend the closing date for the submission of bids or the starting of work until five days after the determination of the general prevailing rates of per diem wages pursuant to this section.

Upon the filing of any such petition, notice thereof shall be set forth in the next and all subsequent publications by the awarding body of the call for bids. No other notice need be given to bidders by the awarding body by publication or otherwise. The determination of the director shall be included in the contract.

1773.5. The Director of Industrial Relations may establish rules and regulations for the purpose of carrying out this chapter, including, but not limited to, the responsibilities and duties of awarding bodies under this chapter.

1773.6. If during any quarterly period the Director of Industrial Relations shall determine that there has been a change in any prevailing rate of per diem wages in any locality he shall make such change available to the awarding body and his determination shall be final. Such determination by the Director of Industrial Relations shall not be effective as to any contract for which the notice to bidders has been published.

1773.7. The provisions of Section 11250 of the Government Code shall not be applicable to Sections 1773, 1773.4, and 1773.6.

1773.9. (a) The Director of Industrial Relations shall use the methodology set forth in subdivision (b) to determine the general prevailing rate of per diem wages in the locality in which the public work is to be performed.

(b) The general prevailing rate of per diem wages includes all of the following:

- (1) The basic hourly wage rate being paid to a majority of workers engaged in the particular craft, classification, or type of work within the locality and in the nearest labor market area, if a majority of the workers is paid at a single rate. If no single rate is being paid to a majority of the workers, then the single rate being paid to the greatest number of workers, or modal rate, is prevailing. If a modal rate cannot be determined, then the director shall establish an alternative rate, consistent with the methodology for determining the modal rate, by considering the appropriate collective bargaining agreements, federal rates, rates in the nearest labor market area, or other data such as wage survey data.
 - (2) Other employer payments included in per diem wages pursuant to Section 1773.1 and as included as part of the total hourly wage rate from which the basic hourly wage rate was derived. In the event the total hourly wage rate does not include any employer payments, the director shall establish a prevailing employer payment rate by the same procedure set forth in paragraph (1).
 - (3) The rate for holiday and overtime work shall be those rates specified in the collective bargaining agreement when the basic hourly rate is based on a collective bargaining agreement rate. In the event the basic hourly rate is not based on a collective bargaining agreement, the rate for holidays and overtime work, if any, included with the prevailing basic hourly rate of pay shall be prevailing.
- (c) (1) If the director determines that the general prevailing rate of per diem wages is the rate established by a collective bargaining agreement, and that the collective bargaining agreement contains definite and predetermined changes during its term that will affect the rate adopted, the director shall incorporate those changes into the determination. Predetermined changes that are rescinded prior to their effective date shall not be enforced.
- (2) When the director determines that there is a definite and predetermined change in the general prevailing rate of per diem wages as described in paragraph (1), but has not published, at the time of the effective date of the predetermined change, the allocation of the predetermined change as between the basic hourly wage and other employer

payments included in per diem wages pursuant to Section 1773.1, a contractor or subcontractor may allocate payments of not less than the amount of the definite and predetermined change to either the basic hourly wage or other employer payments included in per diem wages for up to 60 days following the director's publication of the specific allocation of the predetermined change.

- (3) When the director determines that there is a definite and predetermined change in the general prevailing rate of per diem wages as described in paragraph (1), but the allocation of that predetermined change as between the basic hourly wage and other employer payments included in per diem wages pursuant to Section

1773.1 is subsequently altered by the parties to a collective bargaining agreement described in paragraph (1), a contractor or subcontractor may allocate payments of not less than the amount of the definite and predetermined change in accordance with either the originally published allocation or the allocation as altered in the collective bargaining agreement.

1773.11. (a) Notwithstanding any other provision of law and except as otherwise provided by this section, if the state or a political subdivision thereof agrees by contract with a private entity that the private entity's employees receive, in performing that contract, the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work, the director shall, upon a request by the state or the political subdivision, do both of the following:

- (1) Determine, as otherwise provided by law, the wage rates for each craft, classification, or type of worker that are needed to execute the contract.
- (2) Provide these wage rates to the state or political subdivision that requests them.
- (b) This section does not apply to a contract for a public work, as defined in this chapter.
- (c) The director shall determine and provide the wage rates described in this section in the order in which the requests for these wage rates were received and regardless of the calendar year in which they were received. If there are more than 20 pending requests in a calendar year, the director shall respond only to the first 20 requests in the order in which they were received. If the director determines that funding is available in any calendar year to determine and provide these wage rates in response to more than 20 requests, the director shall respond to these requests in a manner consistent with this subdivision.

1774. The contractor to whom the contract is awarded, and any subcontractor under him, shall pay not less than the specified prevailing rates of wages to all workmen employed in the execution of the contract.

1775. (a) (1) The contractor and any subcontractor under the contractor shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit not more than fifty dollars (\$50) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rates as determined by the director for the work or craft in which the worker is employed for any public work done under the contract by the contractor or, except as provided in subdivision (b), by any subcontractor under the contractor.

- (2) (A) The amount of the penalty shall be determined by the Labor Commissioner based on consideration of both of the following:
 - (i) Whether the failure of the contractor or subcontractor to pay the correct rate of per diem wages was a good faith mistake and, if so, the error was promptly and voluntarily corrected when brought to the attention of the contractor or subcontractor.
 - (ii) Whether the contractor or subcontractor has a prior record of failing to meet its prevailing wage obligations.
- (B) (i) The penalty may not be less than ten dollars (\$10) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, unless the failure of the contractor or subcontractor to pay the correct rate of per diem wages was a good faith

mistake and, if so, the error was promptly and voluntarily corrected when brought to the attention of the contractor or subcontractor.

- (ii) The penalty may not be less than twenty dollars (\$20) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, if the contractor or subcontractor has been assessed penalties within the previous three years for failing to meet its prevailing wage obligations on a separate contract, unless those penalties were subsequently withdrawn or overturned.
- (iii) The penalty may not be less than thirty dollars (\$30) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, if the Labor Commissioner determines that the violation was willful, as defined in subdivision (c) of Section 1777.1.
- (c) When the amount due under this section is collected from the contractor or subcontractor, any outstanding wage claim under Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 against that contractor or subcontractor shall be satisfied before applying that amount to the penalty imposed on that contractor or subcontractor pursuant to this section.
- (D) The determination of the Labor Commissioner as to the amount of the penalty shall be reviewable only for abuse of discretion.
- (E) The difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the contractor or subcontractor, and the body awarding the contract shall cause to be inserted in the contract a stipulation that this section will be complied with.
- (b) If a worker employed by a subcontractor on a public works project is not paid the general prevailing rate of per diem wages by the subcontractor, the prime contractor of the project is not liable for any penalties under subdivision (a) unless the prime contractor had knowledge of that failure of the subcontractor to pay the specified prevailing rate of wages to those workers or unless the prime contractor fails to comply with all of the following requirements:
 - (1) The contract executed between the contractor and the subcontractor for the performance of work on the public works project shall include a copy of the provisions of Sections 1771, 1775, 1776, 1777.5, 1813, and 1815.
 - (2) The contractor shall monitor the payment of the specified general prevailing rate of per diem wages by the subcontractor to the employees, by periodic review of the certified payroll records of the subcontractor.
 - (3) Upon becoming aware of the failure of the subcontractor to pay his or her workers the specified prevailing rate of wages, the contractor shall diligently take corrective action to halt or rectify the failure, including, but not limited to, retaining sufficient funds due the subcontractor for work performed on the public works project.
- (4) Prior to making final payment to the subcontractor for work performed on the public works project, the contractor shall obtain an affidavit signed under penalty of perjury from the subcontractor that the subcontractor has paid the specified general prevailing rate of per diem wages to his or her employees on the public works project and any amounts due pursuant to Section 1813.
- (c) The Division of Labor Standards Enforcement shall notify the contractor on a public works project within 15 days of the receipt by the Division of Labor Standards Enforcement of a complaint of the failure of a subcontractor on that public works project to pay workers the general prevailing rate of per diem wages.

1776. (a) Each contractor and subcontractor shall keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection

- with the public work. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:
- (1) The information contained in the payroll record is true and correct.
 - (2) The employer has complied with the requirements of Sections 1771, 1811, and 1815 for any work performed by his or her employees on the public works project.
- (b) The payroll records enumerated under subdivision (a) shall be certified and shall be available for inspection at all reasonable hours at the principal office of the contractor on the following basis:
- (1) A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or his or her authorized representative on request.
 - (2) A certified copy of all payroll records enumerated in subdivision (a) shall be made available for inspection or furnished upon request to a representative of the body awarding the contract, the Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards of the Department of Industrial Relations.
 - (3) A certified copy of all payroll records enumerated in subdivision (a) shall be made available upon request by the public for inspection or for copies thereof. However, a request by the public shall be made through either the body awarding the contract, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement. If the requested payroll records have not been provided pursuant to paragraph (2), the requesting party shall, prior to being provided the records, reimburse the costs of preparation by the contractor, subcontractors, and the entity through which the request was made. The public may not be given access to the records at the principal office of the contractor.
- (c) The certified payroll records shall be on forms provided by the Division of Labor Standards Enforcement or shall contain the same information as the forms provided by the division. The payroll records may consist of printouts of payroll data that are maintained as computer records, if the printouts contain the same information as the forms provided by the division and the printouts are verified in the manner specified in subdivision (a).
- (d) A contractor or subcontractor shall file a certified copy of the records enumerated in subdivision (a) with the entity that requested the records within 10 days after receipt of a written request.
- (e) Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by the awarding body, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement shall be marked or obliterated to prevent disclosure of an individual's name, address, and social security number. The name and address of the contractor awarded the contract or the subcontractor performing the contract shall not be marked or obliterated. Any copy of records made available for inspection by, or furnished to, a joint labor-management committee established pursuant to the federal Labor Management Cooperation Act of 1978 (29 U.S.C. Sec. 175a) shall be marked or obliterated only to prevent disclosure of an individual's name and social security number. A joint labor management committee may maintain an action in a court of competent jurisdiction against an employer who fails to comply with Section 1774. The court may award restitution to an employee for unpaid wages and may award the joint labor management committee reasonable attorney's fees and costs incurred in maintaining the action. An action under this subdivision may not be based on the employer's misclassification of the craft of a worker on its certified payroll records. Nothing in this subdivision limits any other available remedies for a violation of this chapter.
- (f) The contractor shall inform the body awarding the contract of the location of the records enumerated under subdivision (a), including the street address, city, and county, and shall, within five working days, provide a notice of a change of location and address.
- (g) The contractor or subcontractor has 10 days in which to comply subsequent to receipt of a written notice requesting the records enumerated in subdivision (a). In the event that the contractor or subcontractor fails to comply within the 10-day period, he

or she shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit twenty-five dollars (\$25) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, these penalties shall be withheld from progress payments then due. A contractor is not subject to a penalty assessment pursuant to this section due to the failure of a subcontractor to comply with this section.

- (h) The body awarding the contract shall cause to be inserted in the contract stipulations to effectuate this section.
- (i) The director shall adopt rules consistent with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and the Information Practices Act of 1977 (Title 1.8 (commencing with Section 1798) of Part 4 of Division 3 of the Civil Code) governing the release of these records, including the establishment of reasonable fees to be charged for reproducing copies of records required by this section.

1777. Any officer, agent, or representative of the State or of any political subdivision who willfully violates any provision of this article, and any contractor, or subcontractor, or agent or representative thereof, doing public work who neglects to comply with any provision of section 1776 is guilty of a misdemeanor.

1777.1. (a) Whenever a contractor or subcontractor performing a public works project pursuant to this chapter is found by the Labor Commissioner to be in violation of this chapter with intent to defraud, except Section 1777.5, the contractor or subcontractor or a firm, corporation, partnership, or association in which the contractor or subcontractor has any interest is ineligible for a period of not less than one year or more than three years to do either of the following:

- (1) Bid on or be awarded a contract for a public works project.
- (2) Perform work as a subcontractor on a public works project.
- (b) Whenever a contractor or subcontractor performing a public works project pursuant to this chapter is found by the Labor Commissioner to be in willful violation of this chapter, except Section 1777.5, the contractor or subcontractor or a firm, corporation, partnership, or association in which the contractor or subcontractor has any interest is ineligible for a period up to three years for each second and subsequent violation occurring within three years of a separate and previous willful violation of this chapter to do either of the following:
 - (1) Bid on or be awarded a contract for a public works project.
 - (2) Perform work as a subcontractor on a public works project.
- (c) A willful violation occurs when the contractor or subcontractor knew or reasonably should have known of his or her obligations under the public works law and deliberately fails or refuses to comply with its provisions.
- (d) Not less than semiannually, the Labor Commissioner shall publish and distribute to awarding bodies a list of contractors who are ineligible to bid on or be awarded a public works contract, or to perform work as a subcontractor on a public works project pursuant to this chapter. The list shall contain the name of the contractor, the Contractor's State License Board license number of the contractor, and the effective period of debarment of the contractor. The commissioner shall also place advertisements in construction industry publications targeted to the contractors and subcontractors, chosen by the commissioner, that state the effective period of the debarment and the reason for debarment. The advertisements shall appear one time for each debarment of a contractor in each publication chosen by the commissioner. The debarred contractor or subcontractor shall be liable to the commissioner for the reasonable cost of the advertisements, not to exceed five thousand dollars (\$5,000). The amount paid to the commissioner for the advertisements shall be credited against the contractor's or subcontractor's obligation to pay civil fines or penalties for the same willful violation of this chapter.

- (e) For purposes of this section, "contractor or subcontractor" means a firm, corporation, partnership, or association and its responsible managing officer, as well as any supervisors, managers, and officers found by the Labor Commissioner to be personally and substantially responsible for the willful violation of this chapter.
- (f) For the purposes of this section, the term "any interest" means an interest in the entity bidding or performing work on the public works project, whether as an owner, partner, officer, manager, employee, agent, consultant, or representative. "Any interest" includes, but is not limited to, all instances where the debarred contractor or subcontractor receives payments, whether cash or any other form of compensation, from any entity bidding or performing work on the public works project, or enters into any contracts or agreements with the entity bidding or performing work on the public works project for services performed or to be performed for contracts that have been or will be assigned or sublet, or for vehicles, tools, equipment, or supplies that have been or will be sold, rented, or leased during the period from the initiation of the debarment proceedings until the end of the term of the debarment period. "Any interest" does not include shares held in a publicly traded corporation if the shares were not received as compensation after the initiation of debarment from an entity bidding or performing work on a public works project.
- (g) For the purposes of this section, the term "entity" is defined as a company, limited liability company, association, partnership, sole proprietorship, limited liability partnership, corporation, business trust, or organization.
- (h) The Labor Commissioner shall adopt rules and regulations for the administration and enforcement of this section.

1777.5. (a) Nothing in this chapter shall prevent the employment of properly registered apprentices upon public works.

- (b) Every apprentice employed upon public works shall be paid the prevailing rate of per diem wages for apprentices in the trade to which he or she is registered and shall be employed only at the work of the craft or trade to which he or she is registered.
- (c) Only apprentices, as defined in Section 3077, who are in training under apprenticeship standards that have been approved by the Chief of the Division of Apprenticeship Standards and who are parties to written apprentice agreements under Chapter 4 (commencing with Section 3070) of Division 3 are eligible to be employed at the apprentice wage rate on public works. The employment and training of each apprentice shall be in accordance with either of the following:
 - (1) The apprenticeship standards and apprentice agreements under which he or she is training.
 - (2) The rules and regulations of the California Apprenticeship Council.
- (d) When the contractor to whom the contract is awarded by the state or any political subdivision, in performing any of the work under the contract, employs workers in any apprenticeable craft or trade, the contractor shall employ apprentices in at least the ratio set forth in this section and may apply to any apprenticeship program in the craft or trade that can provide apprentices to the site of the public work for a certificate approving the contractor under the apprenticeship standards for the employment and training of apprentices in the area or industry affected. However, the decision of the apprenticeship program to approve or deny a certificate shall be subject to review by the Administrator of Apprenticeship. The apprenticeship program or programs, upon approving the contractor, shall arrange for the dispatch of apprentices to the contractor. A contractor covered by an apprenticeship program's standards shall not be required to submit any additional application in order to include additional public works contracts under that program. "Apprenticeable craft or trade," as used in this section, means a craft or trade determined as an apprenticeable occupation in accordance with rules and regulations

prescribed by the California Apprenticeship Council. As used in this section, "contractor" includes any subcontractor under a contractor who performs any public works not excluded by subdivision (o).

- (e) Prior to commencing work on a contract for public works, every contractor shall submit contract award information to an applicable apprenticeship program that can supply apprentices to the site of the public work. The information submitted shall include an estimate of journeyman hours to be performed under the contract, the number of apprentices proposed to be employed, and the approximate dates the apprentices would be employed. A copy of this information shall also be submitted to the awarding body if requested by the awarding body. Within 60 days after concluding work on the contract, each contractor and subcontractor shall submit to the awarding body, if requested, and to the apprenticeship program a verified statement of the journeyman and apprentice hours performed on the contract. The information under this subdivision shall be public. The apprenticeship programs shall retain this information for 12 months.
- (f) The apprenticeship program that can supply apprentices to the area of the site of the public work shall ensure equal employment and affirmative action in apprenticeship for women and minorities.
- (g) The ratio of work performed by apprentices to journeymen employed in a particular craft or trade on the public work may be no higher than the ratio stipulated in the apprenticeship standards under which the apprenticeship program operates where the contractor agrees to be bound by those standards, but, except as otherwise provided in this section, in no case shall the ratio be less than one hour of apprentice work for every five hours of journeyman work.
- (h) This ratio of apprentice work to journeyman work shall apply during any day or portion of a day when any journeyman is employed at the jobsite and shall be computed on the basis of the hours worked during the day by journeymen so employed. Any work performed by a journeyman in excess of eight hours per day or 40 hours per week shall not be used to calculate the ratio. The contractor shall employ apprentices for the number of hours computed as above before the end of the contract or, in the case of a subcontractor, before the end of the subcontract. However, the contractor shall endeavor, to the greatest extent possible, to employ apprentices during the same time period that the journeymen in the same craft or trade are employed at the jobsite. Where an hourly apprenticeship ratio is not feasible for a particular craft or trade, the Chief of the Division of Apprenticeship Standards, upon application of an apprenticeship program, may order a minimum ratio of not less than one apprentice for each five journeymen in a craft or trade classification.
- (i) A contractor covered by this section that has agreed to be covered by an apprenticeship program's standards upon the issuance of the approval certificate, or that has been previously approved for an apprenticeship program in the craft or trade, shall employ the number of apprentices or the ratio of apprentices to journeymen stipulated in the applicable apprenticeship standards, but in no event less than the 1-to-5 ratio required by subdivision (g).
- (j) Upon proper showing by a contractor that he or she employs apprentices in a particular craft or trade in the state on all of his or her contracts on an annual average of not less than one hour of apprentice work for every five hours of labor performed by journeymen, the Chief of the Division of Apprenticeship Standards may grant a certificate exempting the contractor from the 1-to-5 hourly ratio, as set forth in this section for that craft or trade.
- (k) An apprenticeship program has the discretion to grant to a participating contractor or contractor association a certificate, which shall be subject to the approval of the Administrator of Apprenticeship, exempting the contractor from the 1-to-5 ratio set forth in this section when it finds that any one of the following conditions is met:
 - (1) Unemployment for the previous three-month period in the area exceeds an average of 15 percent.
 - (2) The number of apprentices in training in the area exceeds a ratio of 1 to 5.
 - (3) There is a showing that the apprenticeable craft or trade is replacing at least one-thirtieth of its journeymen annually through apprenticeship training, either on a statewide basis or on a local basis.

- (4) Assignment of an apprentice to any work performed under a public works contract would create a condition that would jeopardize his or her life or the life, safety, or property of fellow employees or the public at large, or the specific task to which the apprentice is to be assigned is of a nature that training cannot be provided by a journeyman.
- (l) When an exemption is granted pursuant to subdivision (k) to an organization that represents contractors in a specific trade from the 1-to-5 ratio on a local or statewide basis, the member contractors shall not be required to submit individual applications for approval to local joint apprenticeship committees, if they are already covered by the local apprenticeship standards.
- (m) (1) A contractor to whom a contract is awarded, who, in performing any of the work under the contract, employs journeymen or apprentices in any apprenticeable craft or trade shall contribute to the California Apprenticeship Council the same amount that the director determines is the prevailing amount of apprenticeship training contributions in the area of the public works site. A contractor may take as a credit for payments to the council any amounts paid by the contractor to an approved apprenticeship program that can supply apprentices to the site of the public works project. The contractor may add the amount of the contributions in computing his or her bid for the contract.
- (2) At the conclusion of the 2002-03 fiscal year and each fiscal year thereafter, the California Apprenticeship Council shall distribute training contributions received by the council under this subdivision, less the expenses of the Division of Apprenticeship Standards for administering this subdivision, by making grants to approved apprenticeship programs for the purpose of training apprentices. The funds shall be distributed as follows:
 - (A) If there is an approved multiemployer apprenticeship program serving the same craft or trade and geographic area for which the training contributions were made to the council, a grant to that program shall be made.
 - (B) If there are two or more approved multiemployer apprenticeship programs serving the same craft or trade and geographic area for which the training contributions were made to the council, the grant shall be divided among those programs based on the number of apprentices registered in each program.
 - (C) All training contributions not distributed under subparagraphs(A) and (B) shall be used to defray the future expenses of the Division of Apprenticeship Standards.
- (3) All training contributions received pursuant to this subdivision shall be deposited in the Apprenticeship Training Contribution Fund, which is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, all money in the Apprenticeship Training Contribution Fund is hereby continuously appropriated for the purpose of carrying out this subdivision and to pay the expenses of the Division of Apprenticeship Standards.
- (n) The body awarding the contract shall cause to be inserted in the contract stipulations to effectuate this section. The stipulations shall fix the responsibility of compliance with this section for all apprenticeable occupations with the prime contractor.
- (o) This section does not apply to contracts of general contractors or to contracts of specialty contractors not bidding for work through a general or prime contractor when the contracts of general contractors or those specialty contractors involve less than thirty thousand dollars (\$30,000).
- (p) All decisions of an apprenticeship program under this section are subject to Section 3081.

1777.6. An employer or a labor union shall not refuse to accept otherwise qualified employees as registered apprentices on any public works on any basis listed in subdivision (a) of Section 12940 of the Government Code, as those bases are defined in Sections 12926 and 12926.1 of the Government Code, except as provided in Section 3077 of this code and Section 12940 of the Government Code.

- 1777.7.** (a) (1) A contractor or subcontractor that is determined by the Chief of the Division of Apprenticeship Standards to have knowingly violated Section 1777.5 shall forfeit as a civil penalty an amount not exceeding one hundred dollars (\$100) for each full calendar day of noncompliance. The amount of this penalty may be reduced by the Chief if the amount of the penalty would be disproportionate to the severity of the violation. A contractor or subcontractor that knowingly commits a second or subsequent violation of Section 1777.5 within a three-year period, where the noncompliance results in apprenticeship training not being provided as required by this chapter, shall forfeit as a civil penalty the sum of not more than three hundred dollars (\$300) for each full calendar day of noncompliance. Notwithstanding Section 1727, upon receipt of a determination that a civil penalty has been imposed by the Chief, the awarding body shall withhold the amount of the civil penalty from contract progress payments then due or to become due.
- (2) In lieu of the penalty provided for in this subdivision, the Chief may, for a first-time violation and with the concurrence of an apprenticeship program described in subdivision (d), order the contractor or subcontractor to provide apprentice employment equivalent to the work hours that would have been provided for apprentices during the period of noncompliance.
- (b) In the event a contractor or subcontractor is determined by the Chief to have knowingly committed a serious violation of any provision of Section 1777.5, the Chief may also deny to the contractor or subcontractor, and to its responsible officers, the right to bid on or be awarded or perform work as a subcontractor on any public works contract for a period of up to one year for the first violation and for a period of up to three years for a second or subsequent violation. Each period of debarment shall run from the date the determination of noncompliance by the Chief becomes a final order of the Administrator of Apprenticeship.
- (c) (1) An affected contractor, subcontractor, or responsible officer may obtain a review of the determination of the Chief imposing the debarment or civil penalty by transmitting a written request to the office of the Administrator within 30 days after service of the determination of debarment or civil penalty. A copy of this request shall also be served on the Chief. If the Administrator does not receive a timely request for review of the determination of debarment or civil penalty made by the Chief, the order shall become the final order of the Administrator.
- (2) Within 20 days of the timely receipt of a request for review, the Chief shall provide the contractor, subcontractor, or responsible officer the opportunity to review any evidence the Chief may offer at the hearing. The Chief shall also promptly disclose any nonprivileged documents obtained after the 20-day time limit at a time set forth for exchange of evidence by the Administrator.
- (3) Within 90 days of the timely receipt of a request for review, a hearing shall be commenced before the Administrator or an impartial hearing officer designated by the Administrator and possessing the qualifications of an administrative law judge pursuant to subdivision (b) of Section 11502 of the Government Code. The affected contractor, subcontractor, or responsible officer shall have the burden of providing evidence of compliance with Section 1777.5.
- (4) Within 45 days of the conclusion of the hearing, the Administrator shall issue a written decision affirming, modifying, or dismissing the determination of debarment or civil penalty. The decision shall contain a statement of the factual and legal basis for the decision and an order. This decision shall be served on all parties and the awarding body pursuant to Section 1013 of the Code of Civil Procedure by first-class mail at the last known address of the party that the party has filed with the Administrator. Within 15 days of issuance of the decision, the Administrator may reconsider or modify the decision to correct an error, except that a clerical error may be corrected at any time.
- (5) An affected contractor, subcontractor, or responsible officer who has timely requested review and obtained a decision under paragraph (4) may obtain review of the decision of the Administrator by filing a petition for a writ of mandate to the appropriate superior court pursuant to Section 1094.5 of the Code of Civil Procedure within 45 days after service of the final decision. If no timely petition for a writ of mandate is filed, the decision shall become the final order of the Administrator. The decision of the Administrator shall be

affirmed unless the petitioner shows that the Administrator abused his or her discretion. If the petitioner claims that the findings are not supported by the evidence, abuse of discretion is established if the court determines that the findings are not supported by substantial evidence in light of the entire record.

- (6) The Chief may certify a copy of the final order of the Administrator and file it with the clerk of the superior court in any county in which the affected contractor or subcontractor has property or has or had a place of business. The clerk, immediately upon the filing, shall enter judgment for the state against the person assessed in the amount shown on the certified order. A judgment entered pursuant to this section shall bear the same rate of interest and shall have the same effect as other judgments and be given the same preference allowed by the law on other judgments rendered for claims for taxes. The clerk shall not charge for the service performed by him or her pursuant to this section. An awarding body that has withheld funds in response to a determination by the Chief imposing a penalty under this section shall, upon receipt of a certified copy of a final order of the Administrator, promptly transmit the withheld funds, up to the amount of the certified order, to the Administrator.
- (d) If a subcontractor is found to have violated Section 1777.5, the prime contractor of the project is not liable for any penalties under subdivision (a), unless the prime contractor had knowledge of the subcontractor's failure to comply with the provisions of Section 1777.5 or unless the prime contractor fails to comply with any of the following requirements:
 - (1) The contract executed between the contractor and the subcontractor or the performance of work on the public works project shall include a copy of the provisions of Sections 1771, 1775, 1776, 1777.5, 1813, and 1815.
 - (2) The contractor shall continually monitor a subcontractor's use of apprentices required to be employed on the public works project pursuant to subdivision (d) of Section 1777.5, including, but not limited to, periodic review of the certified payroll of the subcontractor.
 - (3) Upon becoming aware of a failure of the subcontractor to employ the required number of apprentices, the contractor shall take corrective action, including, but not limited to, retaining funds due the subcontractor for work performed on the public works project until the failure is corrected.
 - (4) Prior to making the final payment to the subcontractor for work performed on the public works project, the contractor shall obtain a declaration signed under penalty of perjury from the subcontractor that the subcontractor has employed the required number of apprentices on the public works project.
- (e) Any funds withheld by the awarding body pursuant to this section shall be deposited in the General Fund if the awarding body is a state entity, or in the equivalent fund of an awarding body if the awarding body is an entity other than the state.
- (f) The Chief shall consider, in setting the amount of a monetary penalty, in determining whether a violation is serious, and in determining whether and for how long a party should be debarred for violating this section, all of the following circumstances:
 - (1) Whether the violation was intentional.
 - (2) Whether the party has committed other violations of Section 1777.5.
 - (3) Whether, upon notice of the violation, the party took steps to voluntarily remedy the violation.
 - (4) Whether, and to what extent, the violation resulted in lost training opportunities for apprentices.
 - (5) Whether, and to what extent, the violation otherwise harmed apprentices or apprenticeship programs. If a party seeks review of a decision by the Chief to impose a monetary penalty or period of debarment, the Administrator shall decide de novo the appropriate penalty, by considering the same factors set forth above.
- (g) The interpretation of Section 1777.5 and this section shall be in accordance with the regulations of the California Apprenticeship Council. The Administrator may adopt regulations to establish guidelines for the imposition of monetary penalties and periods of debarment and may designate precedential decisions under Section 11425.60 of the Government Code.

- 1778.** Every person, who individually or as a representative of an awarding or public body or officer, or as a contractor or subcontractor doing public work, or agent or officer thereof, who takes, receives, or conspires with another to take or receive, for his own use or the use of any other person any portion of the wages of any workman or working subcontractor, in connection with services rendered upon any public work is guilty of a felony.
- 1779.** Any person or agent or officer thereof who charges, collects, or attempts to charge or collect, directly or indirectly, a fee or valuable consideration for registering any person for public work, or for giving information as to where such employment may be procured, or for placing, assisting in placing, or attempting to place, any person in public work, whether the person is to work directly for the State, or any political subdivision or for a contractor or subcontractor doing public work is guilty of a misdemeanor.
- 1780.** Any person acting on behalf of the State or any political subdivision, or any contractor or subcontractor or agent or representative thereof, doing any public work who places any order for the employment of a workman on public work where the filling of the order for employment involves the charging of a fee, or the receiving of a valuable consideration from any applicant for employment is guilty of a misdemeanor.
- 1781.** (a) (1) Notwithstanding any other provision of law, a contractor may, subject to paragraphs (2) and (3), bring an action in a court of competent jurisdiction to recover from the body awarding a contract for a public work or otherwise undertaking any public work any increased costs incurred by the contractor as a result of any decision by the body, the Department of Industrial Relations, or a court that classifies, after the time at which the body accepts the contractor's bid or awards the contractor a contract in circumstances where no bid is solicited, the work covered by the bid or contract as a "public work," as defined in this chapter, to which Section 1771 applies, if that body, before the bid opening or awarding of the contract, failed to identify as a "public work," as defined in this chapter, in the bid specification or in the contract documents that portion of the work that the decision classifies as a "public work."
- (2) The body awarding a contract for a public work or otherwise undertaking any public work is not liable for increased costs in an action described in paragraph (1) if all of the following conditions are met:
- (A) The contractor did not directly submit a bid to, or directly contract with, that body.
 - (B) The body stated in the contract, agreement, ordinance, or other written arrangement by which it undertook the public work that the work described in paragraph (1) was a "public work," as defined in this chapter, to which Section 1771 applies, and obligated the party with whom the body makes its written arrangement to cause the work described in paragraph (1) to be performed as a "public work."
 - (C) The body fulfilled all of its duties, if any, under the Civil Code or any other provision of law pertaining to the body providing and maintaining bonds to secure the payment of contractors, including the payment of wages to workers performing the work described in paragraph (1).
- (3) If a contractor did not directly submit a bid to, or directly contract with a body awarding a contract for, or otherwise undertaking a public work, the liability of that body in an action commenced by the contractor under subdivision (a) is limited to that portion of a judgment, obtained by that contractor against the body that solicited the contractor's bid or awarded the contract to the contractor, that the contractor is unable to satisfy. For purposes of this paragraph, a contractor may not be deemed to be unable to satisfy any portion of a judgment unless, in addition to other collection measures, the contractor has made a good faith attempt to collect that portion of the judgment against a surety bond, guarantee, or some other form of assurance.

- (b) When construction has not commenced at the time a final decision by the Department of Industrial Relations or a court classifies all or part of the work covered by the bid or contract as a "public work," as defined in this chapter, the body that solicited the bid or awarded the contract shall rebid the "public work" covered by the contract as a "public work," any bid that was submitted and any contract that was executed for this work are null and void, and the contractor may not be compensated for any nonconstruction work already performed unless the body soliciting the bid or awarding the contract has agreed to compensate the contractor for this work.
 - (c) For purposes of this section: "Awarding body" does not include the Department of General Services, the Department of Transportation, or the Department of Water Resources.
- (2) "Increased costs" includes, but is not limited to:
- (A) Labor cost increases required to be paid to workers who perform or performed work on the "public work" as a result of the events described in subdivision (a).
 - (B) Penalties for a violation of this article for which the contractor is liable, and which violation is the result of the events described in subdivision (a).

LABOR

CODE

SECTION 1810-1815

- 1810.** Eight hours labor constitutes a legal day's work in all cases where the same is performed under the authority of any law of this State, or under the direction, or control, or by the authority of any officer of this State acting in his official capacity, or under the direction, or control or by the authority of any municipal corporation, or of any officer thereof. A stipulation to that effect shall be made a part of all contracts to which the State or any municipal corporation therein is a party.
- 1811.** The time of service of any workman employed upon public work is limited and restricted to 8 hours during any one calendar day, and 40 hours during any one calendar week, except as hereinafter provided for under Section 1815.
- 1812.** Every contractor and subcontractor shall keep an accurate record showing the name of and actual hours worked each calendar day and each calendar week by each worker employed by him or her in connection with the public work. The record shall be kept open at all reasonable hours to the inspection of the awarding body and to the Division of Labor Standards Enforcement.
- 1813.** The contractor or subcontractor shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit twenty-five dollars (\$25) for each worker employed in the execution of the contract by the respective contractor or subcontractor for each calendar day during which the worker is required or permitted to work more than 8 hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of this article. In awarding any contract for public work, the awarding body shall cause to be inserted in the contract a stipulation to this effect. The awarding body shall take cognizance of all violations of this article committed in the course of the execution of the contract, and shall report them to the Division of Labor Standards Enforcement.
- 1814.** Any officer, agent, or representative of the State or any political subdivision who violates any provision of this article and any contractor or subcontractor or agent or representative thereof doing public work who neglects to comply with any provision of Section 1812 is guilty of a misdemeanor.
- 1815.** Notwithstanding the provisions of Sections 1810 to 1814, inclusive, of this code, and notwithstanding any stipulation inserted in any contract pursuant to the requirements of said sections, work performed by employees of contractors in excess of 8 hours per day,

and 40 hours during any one week, shall be permitted upon public work upon compensation for all hours worked in excess of 8 hours per day at not less than 1 1/2 times the basic rate of pay.

LABOR

CODE

SECTION 1860-1861

1860. The awarding body shall cause to be inserted in every public works contract a clause providing that, in accordance with the provisions of Section 3700 of the Labor Code, every contractor will be required to secure the payment of compensation to his employees.

1861. Each contractor to whom a public works contract is awarded shall sign and file with the awarding body the following certification prior to performing the work of the contract: "I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract."

Division of Apprenticeship Standards

APPRENTICES ON PUBLIC WORKS

SUMMARY OF REQUIREMENTS

Compliance with California Labor Code Section 1777.5 requires all public works contractors and subcontractors to:

- Submit contract award information to the applicable joint apprenticeship committee, including an estimate of the journeyman hours to be performed under the contract, the number of apprentices to be employed, and the approximate dates the apprentices will be employed.

The contract award information shall be in writing, and shall be provided to the applicable apprenticeship committee within 10 days of the date of the agreement or contract award, but in no event later than the first day in which the contractor has workers employed upon the public work. (California Code of Regulations, Title 8, Section 230.)

- Employ apprentices on the public work in a ratio to journeymen of no less than one hour of apprentice work for every five hours of labor performed by a journeyman.
- Contribute to the training fund in the amount identified in the Prevailing Wage Rate publication for journeymen and apprentices. Contractors who choose not to contribute to the local training trust fund must make their contributions to the California Apprenticeship Council, P.O. Box 420603, San Francisco, CA 94142. Training contributions to the Council are due and payable on the 15th of the month for work performed during the preceding month.

Training contributions to the Council shall be paid by check and shall be accompanied by a completed CAC2 form, Training Fund Contributions, or the following information (California Code of Regulations, Title 8, Section 230.2 c):

1. The name, address and telephone number of the contractor making the contribution.
 2. The contractor's license number.
 3. The name and address of the public agency that awarded the contract.
 4. The jobsite location, including the county where the work was performed.
 5. The contract or project number
 6. The time period covered by the enclosed contributions.
 7. The contribution rate and total hours worked by the apprenticeable occupation(s).
- Pay the apprentice rate on public works projects only to those apprentices who are registered, as defined in Labor Code Section 3077:

Sec. 3077. The term "apprentice" as used in this chapter, means a person at least 16 years of age who has entered into a written agreement, in this chapter called an "apprentice agreement", with an employer or program sponsor. The term of apprenticeship for each apprenticeable occupation shall be approved by the chief, and in no case shall provide for no less than 2,000 hours or reasonably continuous employment for such person for his or her participation in an approved program of training through employment and through education in related and supplemental subjects.

State of California

Department of Industrial Relations

This form should be sent to the Apprenticeship Committee of the craft or trade in area of the site of the public work. If you have any questions as to the address of the appropriate Apprenticeship Committee, contact the nearest office of the Division of Apprenticeship Standards (DAS). Consult your telephone directory under California, State of, Industrial Relations, for the DAS office in your area. *Do not send this form to the Division of Apprenticeship Standards.*

PUBLIC WORKS

TRACT AWARD INFORMATION

Name of Contractor:	Contractor's State License No.:
Contractor's Mailing Address -- Number & Street, City, Zip Code:	Area Code & Telephone No.:
Name & Location of Public Works Project:	Date of Contract Award:
	Date of Expected or Actual Start of Project:
Name & Address of Public Agency Awarding Contract	Estimated Number of Journeymen Hours:
APPRENTICES	
Occupation of Apprentice	Number To Be Employed
	Approximate Dates To Be Employed

Check One Of The Boxes Below

Please Note: Your election of options is not to be deemed a request for the immediate dispatch of apprentices. Contractors must make a separate request for actual dispatch.

- Box 1 ☐ We will request dispatch of apprentice(s) for this job in accordance with Section 230.1 (A), California Code of Regulations. We voluntarily choose to comply with the applicable Apprenticeship Committee Standards for the duration of this job only, with regard to training apprentices and to the payment of training contributions.
- Box 2 ☐ We will request dispatch of apprentice(s) for this job in accordance with Section 230.1 (A), California Code of Regulations, but do not agree to be bound by the applicable Apprenticeship Committee Standards in training the apprentices; instead, we agree to employ and train apprentice(s) in accordance with the California Apprenticeship Council regulations, including section 230.1 of the California Code of Regulations. governing employment of apprentices on public work projects.
- Box 3 ☐ We are already approved to train apprentices by the applicable Apprenticeship Committee and we will employ and train under the Standards. We will request dispatch of apprentices for this job in accordance with Section 230.1 (A), California Code of Regulations.
- Box 4 ☐ We will not request the dispatch of apprentice(s) since apprentices are not required on this job under the provisions of California Labor Code Section 1777.5, because:

Signature: _____

Typed Name _____

Title: _____ Date: _____

Please use a separate form for each jobsite, listing the occupations for the jobsite. One check, payable to the California Apprenticeship Council, may be submitted for all jobsites and/or occupations. Training fund contributions are not accepted by the California Apprentice Council for federal public works projects, or for non-apprenticable occupations such as laborers, utility technicians, teamsters, etc.

TRAINING FUND CONTRIBUTIONS

California Apprenticeship Council

Name and Address of Contractor/Subcontractor making Contribution	Contractor's License Number		
	Contract or Project Number		
Name and Address of Public Agency Awarding Contract	Jobsite Location (Including County)		
	Period Covered by Contribution		

Classification(s) or Workers (Carpenter, Plumber, Electrician, Etc.)	Hours	Cont. Rate per Hour	Amount

Signature	Date
Title	Area Code & Telephone Number

CAC 2

CONTRACTOR FRINGE BENEFIT STATEMENT

Contract Number / Name:	Contract Location:	Today's Date:
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Contractor / Subcontractor Name:	Business Address:
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In order that the proper Fringe Benefit rates can be verified when checking payrolls on the above contract, the hourly rates for fringe benefits, subsistence and/or travel allowance payment made for employees on the various classes of work are tabulated below.

Classification:	Effective Date:	Subsistence or Travel Pay: \$ _____
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FRINGE BENEFITS	&	\$ _____	PAID TO: Name: _____ Address: _____
	e		
	n	\$ _____	PAID TO: Name: _____ Address: _____
	on/	\$ _____	PAID TO: Name: _____ Address: _____
	y		Address: _____
	g	\$ _____	PAID TO: Name: _____ Address: _____
	Other		Address: _____

Classification:	Effective Date:	Subsistence or Travel Pay: \$ _____
-----------------	-----------------	--

FRINGE BENEFITS	&	\$ _____	PAID TO: Name: _____ Address: _____
	e		
	n	\$ _____	PAID TO: Name: _____ Address: _____
	on/	\$ _____	PAID TO: Name: _____ Address: _____
	y		Address: _____
	g	\$ _____	PAID TO: Name: _____ Address: _____
	Other		Address: _____

Classification:	Effective Date:	Subsistence or Travel Pay: \$ _____
-----------------	-----------------	--

FRINGE BENEFITS	&	\$ _____	PAID TO: Name: _____ Address: _____
	e		
	n	\$ _____	PAID TO: Name: _____ Address: _____
	on/	\$ _____	PAID TO: Name: _____ Address: _____
	y		Address: _____
	g	\$ _____	PAID TO: Name: _____ Address: _____
	Other		Address: _____

Supplemental statements must be submitted during the progress of work should a change in rate of any of the classifications be made.

Submitted: Contractor / Subcontractor	By: Name / Title
---------------------------------------	------------------

PUBLIC WORKS WEEKLY CERTIFIED PAYROLL REPORTING FORM

Name of Contractor: ABC Lighting Company
or Subcontractor:

Business Address: 123 Main Street Antioch Ca 92222

Contractor's License#: 00-111-2222
Worker's Compensation Policy# 99-888-77

Employee's Name, Address and Social Security Number	# of withholding exemptions	Work Classification	Hours Worked Each Day							S	O	Total Hours	Rate of Pay	Gross Amount Earned																											
			M	T	W	TH	F	S	S																																
John Smith 444 5 th Avenue Antioch CA 92111 444-55-6666	S-4	Fixture Cleaner	8	8								16	11.50	This Project: 184.00																											
														All Projects: 725.00																											
			Deductions, Contributions and Payments										Net Wages Paid for Week: 168.63	Check	12345																										
<table border="1"> <thead> <tr> <th>Federal Tax</th> <th>FICA Soc Sec</th> <th>State Tax</th> <th>SDI</th> <th>Vacation/Holiday</th> <th>Health & Welfare</th> <th>Pension</th> <th>Training</th> <th>Fund Admin</th> <th>Dues</th> <th>Travel/Subs.</th> <th>Savings</th> <th>Other*</th> <th>Total Deductions</th> </tr> </thead> <tbody> <tr> <td>0</td> <td>14.08</td> <td>0</td> <td>1.29</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td>15.37</td> </tr> </tbody> </table>										Federal Tax	FICA Soc Sec	State Tax	SDI	Vacation/Holiday	Health & Welfare	Pension	Training	Fund Admin	Dues	Travel/Subs.	Savings	Other*	Total Deductions	0	14.08	0	1.29										15.37				
Federal Tax	FICA Soc Sec	State Tax	SDI	Vacation/Holiday	Health & Welfare	Pension	Training	Fund Admin	Dues	Travel/Subs.	Savings	Other*	Total Deductions																												
0	14.08	0	1.29										15.37																												

Employee's Name, Address and Social Security Number	# of withholding exemptions	Work Classification	Hours Worked Each Day							S	O	Total Hours	Rate of Pay	Gross Amount Earned																											
			M	T	W	TH	F	S	S																																
Juan Gomez 1212 Main Street Antioch, CA 95555 555-66-9999	M-3	Fixture Cleaner	8	8	8		8					40	12.00	This Project: 480.00																											
														All Projects: 936.00																											
			Deductions, Contributions and Payments										Net Wages Paid for Week: 409.58	Check	12346																										
<table border="1"> <thead> <tr> <th>Federal Tax</th> <th>FICA Soc Sec</th> <th>State Tax</th> <th>SDI</th> <th>Vacation/Holiday</th> <th>Health & Welfare</th> <th>Pension</th> <th>Training</th> <th>Fund Admin</th> <th>Dues</th> <th>Travel/Subs.</th> <th>Savings</th> <th>Other*</th> <th>Total Deductions</th> </tr> </thead> <tbody> <tr> <td>29.00</td> <td>36.72</td> <td>1.34</td> <td>3.36</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td>70.42</td> </tr> </tbody> </table>										Federal Tax	FICA Soc Sec	State Tax	SDI	Vacation/Holiday	Health & Welfare	Pension	Training	Fund Admin	Dues	Travel/Subs.	Savings	Other*	Total Deductions	29.00	36.72	1.34	3.36										70.42				
Federal Tax	FICA Soc Sec	State Tax	SDI	Vacation/Holiday	Health & Welfare	Pension	Training	Fund Admin	Dues	Travel/Subs.	Savings	Other*	Total Deductions																												
29.00	36.72	1.34	3.36										70.42																												

Employee's Name, Address and Social Security Number	# of withholding exemptions	Work Classification	Hours Worked Each Day							S	O	Total Hours	Rate of Pay	Gross Amount Earned																											
			M	T	W	TH	F	S	S																																
														This Project:																											
															All Projects:																										
			Deductions, Contributions and Payments										Net Wages Paid for Week:	Check																											
<table border="1"> <thead> <tr> <th>Federal Tax</th> <th>FICA Soc Sec</th> <th>State Tax</th> <th>SDI</th> <th>Vacation/Holiday</th> <th>Health & Welfare</th> <th>Pension</th> <th>Training</th> <th>Fund Admin</th> <th>Dues</th> <th>Travel/Subs.</th> <th>Savings</th> <th>Other*</th> <th>Total Deductions</th> </tr> </thead> <tbody> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table>										Federal Tax	FICA Soc Sec	State Tax	SDI	Vacation/Holiday	Health & Welfare	Pension	Training	Fund Admin	Dues	Travel/Subs.	Savings	Other*	Total Deductions																		
Federal Tax	FICA Soc Sec	State Tax	SDI	Vacation/Holiday	Health & Welfare	Pension	Training	Fund Admin	Dues	Travel/Subs.	Savings	Other*	Total Deductions																												

I, Mary Jones, the undersigned, am Payroll Clerk with the authority to act for and on behalf of ABC Lighting, certify under penalty of perjury that the records or copies thereof submitted and consisting of 1 are the originals or true, full, and correct copies of the originals which depict the payroll record(s) of the actual disbursements by way of cash, check, or whatever form to the individual or individuals named.

Date: 6/30/00

Signature:

Page 1 of 1



PUBLIC WORKS PAYROLL REPORTING FORM

NAME OF CONTRACTOR
OR SUB CONTRACTOR

CONTRACTORS LICENSE #
SPECIALTY LICENSE #

ADDRESS

PAYROLL NO.

FOR WEEK ENDING

SELF-INSURED CERTIFICATE #

PROJECT OR CONTRACT NO.

WORKERS' COMPENSATION POLICY #

PROJECT AND LOCATION

(1) NAME, ADDRESS AND SOCIAL SECURITY NUMBER OF EMPLOYEE	(2) N H E O O X L E O D M F I P W N T I I T G O H N - S	(3) WORK CLASSIFICATION	(4) Day							(5) TOTAL HOURS	(6) HOURLY RATE OF PAY	(7) GROSS AMOUNT EARNED	(8)								(9)	
			M	T	W	TH	F	S	S				(8)								NET WGS PAID FOR WEEK	CHECK NO.
			Date										(8)									
			Hours Worked Each Day										(8)									
													(8)									
			S									THIS PROJECT	ALL PROJECTS	FED TAX	FICA (SOC SEC)	STATE TAX	SDI	VAC/ HOL	HEALTH & WELF	PENSION		
			O											TRANING	FUND ADMIN	DUES	TRV/ SUBS	SAVINGS	OTHER*	TOTAL DED- UCTIONS		
			S									THIS PROJECT	ALL PROJECTS	FED TAX	FICA (SOC SEC)	STATE TAX	SDI	VAC/ HOL	HEALTH & WELF	PENSION		
			O											TRANING	FUND ADMIN	DUES	TRV/ SUBS	SAVINGS	OTHER*	TOTAL DED- UCTIONS		
			S									THIS PROJECT	ALL PROJECTS	FED TAX	FICA (SOC SEC)	STATE TAX	SDI	VAC/ HOL	HEALTH & WELF	PENSION		
			O											TRANING	FUND ADMIN	DUES	TRV/ SUBS	SAVINGS	OTHER*	TOTAL DED- UCTIONS		
			S									THIS PROJECT	ALL PROJECTS	FED TAX	FICA (SOC SEC)	STATE TAX	SDI	VAC/ HOL	HEALTH & WELF	PENSION		
			O											TRANING	FUND ADMIN	DUES	TRV/ SUBS	SAVINGS	OTHER*	TOTAL DED- UCTIONS		

Form A 1-131 (New 2-80)
(form has been reduced to fit page)

S = Straight Time
O = Overtime
SDI = State Disability Insurance

*OTHER - Any other deductions, contributions and/or payment whether or not included or required by prevailing wage determinations must be separately listed. Use extra sheet if necessary

CERTIFICATION must be completed

I, _____, the undersigned, am _____ with the authority to act for and on behalf of _____,
(Name - Print) (position with business) (name of business and/or contractor)
certify under penalty of perjury that the records or copies thereof submitted and consisting of _____ are the originals or true, full and correct copies of the originals which depict the payroll
(description, no. of pages)
record(s) of the actual disbursements by way of cash, check, or whatever form to the individual or individuals named.

Date: _____ Signature: _____

A public entity may require a stricter and/or more extensive form of certification.

GENERAL PREVAILING WAGE DETERMINATION MADE BY THE DIRECTOR OF INDUSTRIAL RELATIONS
PURSUANT TO CALIFORNIA LABOR CODE PART 7, CHAPTER 1, ARTICLE 2, SECTIONS 1770, 1773 AND 1773.1
FOR COMMERCIAL BUILDING, HIGHWAY, HEAVY CONSTRUCTION AND DREDGING PROJECTS

CRAFT: # CARPENTER

DETERMINATION: SD-23-31-4-2000-1

ISSUE DATE: February 22, 2000

EXPIRATION DATE OF DETERMINATION: June 30, 2000** The rate to be paid for work performed after this date has been determined. If work will extend past this date, the new rate must be paid and should be incorporated in contracts entered into now. Contact the Division of Labor Statistics and Research for specific rates at (415) 703-4774.

LOCALITY: All localities within Contra Costa County

CLASSIFICATION (JOURNEYPERSON) and	Basic Hourly Rate	Health and Welfare	Employer Payments			Straight-Time		Overtime Hourly Rate		
			Pension	Vacation/ Holiday	Training	Hours	Total Hourly	Daily	Saturday ^a	Sunday
ENGINEERING CONSTRUCTION							Rate	1 1/2X	1 1/2X	Holiday
Carpenter (Heavy and Highway work)	\$25.25	2.30	1.01	2.72 b	.30	8	31.58	44.205	44.205	56.83
Light Commercial Bridge Carpenter (Highway work)	20.40	2.30	1.01	2.72 b	.30	8	26.73	36.93	36.93	47.13
Millwright	25.38	2.30	1.01	2.72 b	.30	8	31.71	44.40	44.40	57.09
Pile Driver	25.75	2.30	1.01	2.72 b	.30	8	32.08	44.955	44.955	57.83
Diver, Wet (up to 50 ft. depth)cd	25.38	2.30	1.01	2.72 b	.30	8	31.71	44.40	44.40	57.09
Diver, Standby	55.76	2.30	1.01	2.72 b	.30	8	62.09	89.97	89.97	
Diver's Tender	117.85	2.30	1.01	2.72 b	.30	8	34.71	48.90	48.90	63.09
27.38 2.30 1.01 2.72 b .30 8 33.71 47.40 47.40 61.09										

DETERMINATION: SD-23-31-4-2000-1A

ISSUE DATE: February 22, 2000

EXPIRATION DATE OF DETERMINATION: July 1, 2000** The rate to be paid for work performed after this date has been determined. If work will extend past this date, the new rate must be paid and should be incorporated in contracts entered into now. Contact the Division of Labor Statistics and Research for specific rates at (415) 703-4774.

LOCALITY: All localities within Antioch County

BUILDING CONSTRUCTION

Carpenter	\$23.40	2.30	1.01	2.17 b	.30	8	29.18	40.88	40.88	52.58
Light Commercial	18.72	2.30	1.01	2.17 b	.30	8	24.50	33.86	33.86	43.22

DETERMINATION: SD-31-741-1-2000-1

ISSUE DATE: FEBRUARY 22, 2000

EXPIRATION DATE OF DETERMINATION: May 31, 2000* Effective until superseded by a new determination issued by the Director of Industrial Relations. Contact the Division of Labor Statistics and Research (415) 703-4774 for the new rates after 10 days from the expiration date, if no subsequent determination is issued.

LOCALITY: All localities within Antioch County

Classification (Journey person) and	Basic Hourly Rate	Health and Welfare	Employer Payments			Straight-Time		Overtime Hourly Rate		
			Pension	Vacation/ Holiday	Training	Hours	Total Hourly	Daily	Saturday ^a	Sunday
Terrazzo Installer	\$29.55	2.30	1.01	1.72 b	-	8	34.58	49.355	49.355	64.13
Terrazzo Finisher	23.05	2.30	1.01	1.72 b	-	8	28.08	39.605	39.605	51.13

Indicates an apprenticeable craft. Rates for apprentices are available in the General Prevailing Wage Apprentice Schedules. ^a Saturday in the same workweek may be worked at straight-time rate for the first 8 hours if the employee was unable to complete the 40 hours during the normal workweek. ^b Includes supplemental dues. ^c Shall receive a minimum of 8 hours pay for any day or part thereof. ^d For specific rates over 50 ft. depth, contact the Division of Labor Statistics and Research.

DESCRIPTION:

Engineering Construction

Refers to construction which requires a Class A license and includes bridges, highways, dams and also power plants and other heavy industrial type projects.

Building Construction

Requires a Class B license and includes non-residential buildings (such as hospitals, government buildings, public schools) and commercial buildings (with the exception of industrial buildings).

RECOGNIZED HOLIDAYS: Holidays upon which the general prevailing hourly wage rate for Holiday work shall be paid, shall be all holidays in the collective bargaining agreement, applicable to the particular craft, classification, or type of worker employed on the project, which is on file with the Director of Industrial Relations. If the prevailing rate is not based on a collectively bargained rate, the holidays upon which the prevailing rate shall be paid shall be as provided in Section 6700 of the Government Code. You may obtain the holiday provisions for the current determinations on the Internet at <http://www.dir.ca.gov/DLSR/PWD>. Holiday provisions for current or superseded

determinations may be obtained by contacting the Prevailing Wage Unit at (415) 703-4774.

TRAVEL AND/OR SUBSISTENCE PAYMENT: In accordance with Labor Code Sections 1773.1 and 1773.9, contractors shall make travel and/or subsistence payments to each worker to execute the work. Travel and/or subsistence requirements for each craft, classification or type of worker may be obtained from the Prevailing Wage Unit at (415) 703-4774.

LABOR COMPLIANCE SITE VISITATION INTERVIEW FORM
FORMA DE ENTREVISTA DEL SITIO SOBRE CONDECENCIA LABORARIA
Labor Compliance Officer (626)458-25873

SITE NAME: _____ DATE _____
SITIO: _____ FECHA: _____
PROJECT NAME: _____

CONTRACT #: _____ Interior / Exterior (circle)

CONTRACTOR: _____
CONTRANTE: _____

SUBCONTRACTOR: _____
SUBCONTRATANTE _____

Person Interviewed: _____
Nombre de Persona Entrevistada

S/S Number _____ / _____ / _____
Numero de Seguro Social

Position Title: _____
Posision O Titulo del Entrevistado

Task Being Performed at Time of This Interview: _____

Clase de Labor Desenpenando al Tiempo de Entrevista

Hourly Pay Rate: \$ _____
Salario Horario

OBSERVATIONS:

Site Inspector: _____ Telephone _____

Project Superintendent: _____ Telephone _____

Total number of workers observed on the visit: _____

Type of work observed: _____

Type of workers observed: _____

Was the worker believable? Yes No

Did the superintendent or foreman accompany you on the site? Yes No

Explain additional information received from the worker: _____

Interview Conducted by: _____

SITE VISITATION LOG

[illegible]

September 7, 2011

Certified Mail

Mr. John Doe
ACME Painting
13414 Labor Street
Los Angeles, CA 90605

Sample
Pre Award Letter

Dear Mr. Doe:

Public Agencies, LACDPW has identified your firm as the apparent low bidder for Contract #xxxx and has scheduled board approval of a contract requiring your compliance with Division 2 Part 7 of the California Labor Code. This will require the payment of prevailing wages to all workers employed on the project and the reporting of the certified weekly payroll to the LCO. The Labor Code requires, prior to the start of work that a person qualified to certify documents for your firm attend a review meeting with the LCP concerning the Labor Code prevailing wage laws.

The LCO is formally requesting the appearance of the certifying person for the code review, the submittal of the required weekly certified payroll records or nonperformance reports, and the monthly submittal of employment utilization reports, all identified in the contract general conditions.

This request is made pursuant to, and authorized by, California State Labor Code Section 1776(b) (2), which states, "A certified copy of all payroll records enumerated in subdivision (a) shall be made available for inspection or furnished upon request to a representative of the body awarding the contract, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards of the Department of Industrial Relations" and California Code of Regulations section 16430 (a) (2).

The goal of the LCO is to provide the necessary information, assistance, forms and procedures to allow your project to move forward on schedule and in compliance with the State's Labor Code.

Please call the Awarding Body Labor Compliance Officer at (626) 458-2587 to set an appointment and receive the necessary forms prior to the start of your project.

Respectfully,

Ron Beal
Labor Compliance Officer

September 7, 2011

Certified Mail

Jane Doe
ACME Flooring
8320 Camino Santa Fe
Antioch, CA 92121

Sample
Post Award Letter

Dear Ms. Doe:

The Awarding Body has awarded your firm a contract requiring your compliance with Part 7, chapter 1 of the California Labor Code. This will require the payment of prevailing wages to all workers employed on the project and the reporting of the weekly payroll to the Awarding Body's Labor Compliance Officer.

The Labor Code requires, prior to the start of work that a person qualified to sign and certify for your firm attend a review with the LCP of the Labor Code prevailing wage laws.

The Labor Compliance Officer goal is to provide the necessary information, assistance, forms and procedures to allow your project to move forward on schedule and in compliance with the State's Labor Code.

Please call the LCP Labor Compliance Officer at (626) 458-2587 to set an appointment and receive the necessary forms prior to the start of your project.

Respectfully,

Ron Beal
Labor Compliance Coordinator

March 23, 2008

Certified Mail

John Doe
ACME Construction Co.
3170 Labor Street
Vista, CA 92083-8318

Sample
1st Request for
Certified Payrolls

Mr. Doe:

The LCP Labor Compliance Officer is formally requesting copies of Certified Payroll Records and Monthly Utilization Reports.. We are requesting the records from the beginning of the project through project completion for your firm and all subcontractors.

This request is made pursuant to, and authorized by, California State Labor Code Section 1776 (b) (2) and Section 1776 (g) (3) and the contract general conditions requiring weekly employee payments and weekly certified payroll submittals.

Labor Code Section 1776 (b) (2) states: "A certified copy of all payroll records enumerated in subdivision (a) shall be made available for inspection or furnished upon request to a representative of the body awarding the contract, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards of the Department of Industrial Relations."

Labor Code 1776 (g) (3) states: "The contractor shall have 10 days in which to comply subsequent to receipt of written notice specifying in what respects the contractor must comply with this section. In the event that the contractor fails to comply within the 10-day period, he or she shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit twenty-five dollars (\$25) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated."

Please forward all weekly Certified Payroll Records on the state approved forms previously provided to: LCP, Labor Compliance Officer,. If you have any questions, contact me at (626) 458-2587.

Respectfully,

Ron Beal
Labor Compliance Officer

**Prime Contractor:
Project:**

Original Request: 01/08/08

This Request: 02/08/09

1. **Apprenticeship Training Agreement (similar to Form DAS 1) must be provided for:**
2. **Apprenticeship Training Agreement (similar to Form DAS 7) must be provided for:**
3. **Training Fund Contributions (Form CAC 2 or equivalent) must be provided for:**
4. **Public Works Contract Award Information (Form DAS 140) with the name, address and phone number of the training program notified by all project contractors must be provided for:**
5. **Fringe Benefits Statements must be provided for:**
6. **Signed certified Payroll report or statement of Non-Performance with original signatures must be provided for:**

contractors are responsible for submittal of their payrolls and those of their respective subcontractors as one package, which must be in the LCP's Labor Compliance Officer **within one week of each weekly paycheck**. In the event there has been no work performed during a given week, the certified payroll record shall be annotated with the words "No Work" for that week.
7. **To determine the required hours for apprentices on this project we will need the contractor to identify all sub-contractors who will perform work in involving less than \$30,000 or who will be on the project less than 20 calendar days or both.**
8. **Either the Public Works Payroll Reporting Form (Form A-1-131) or Public Agencies reporting form must be used.**

***Sample
Missing Document List***

ACME RE-ROOF PROJECTPRIME CONTRACTOR: **ACME ROOFING CO., INC**

Original Issue date: 00-00-0000

Latest Issue: 00-00-0000

REPORTING CONTRACTOR : COMMERCIAL AND INDUSTRIAL ROOFING CO.,INC								LACDPW		
CONTRACTOR PROVIDED INFORMATION								LACDPW comments		
Employee Name & Social Security Number	Work Classification	Week Ending	Rate Paid	Fringes Paid	Gross Per Hour	Hours Worked	Gross Amount Paid	Prevailing Wage Rate	Amount they should have been paid	Difference
					\$0.00		\$0.00		\$0.00	\$0.00
					\$0.00		\$0.00		\$0.00	\$0.00
					\$0.00		\$0.00		\$0.00	\$0.00
					\$0.00		\$0.00		\$0.00	\$0.00
					\$0.00		\$0.00		\$0.00	\$0.00
					\$0.00		\$0.00		\$0.00	\$0.00
					\$0.00		\$0.00		\$0.00	\$0.00
					\$0.00		\$0.00		\$0.00	\$0.00
					\$0.00		\$0.00		\$0.00	\$0.00
					\$0.00		\$0.00		\$0.00	\$0.00
					\$0.00		\$0.00		\$0.00	\$0.00
					\$0.00		\$0.00		\$0.00	\$0.00
					\$0.00		\$0.00		\$0.00	\$0.00
					\$0.00		\$0.00		\$0.00	\$0.00
					\$0.00		\$0.00		\$0.00	\$0.00
					\$0.00		\$0.00		\$0.00	\$0.00
Total Contractor Difference:										\$0.00

Total Project Difference

\$0.00

March 1, 2008

Certified Mail

Mr. Doe
ACME Construction Co.
115 Market Place, Suite A
Los Angeles, CA 92029-1353

Sample
Certified Payroll Correction Letter

Dear Mr. Doe:

The LCP Labor Compliance Officer has formally requested copies of Certified Payroll Records and Monthly Utilization Reports for Bid Project Portable Contract 82 - Phase 2. We have reviewed your submittal and require additional information.

This new request is made pursuant to, and authorized by, California State Labor Code Sections 1774, 1775, 1776, 1777.5, 1777.7, 1810, 1813 and 1815. Additionally, the contract general conditions require weekly certified payroll record submittals to the LCPs Labor Compliance Officer and weekly payment of employee wages.

Labor Code §1776 (b) (2) states: “A certified copy of all payroll records enumerated in subdivision (a) shall be made available for inspection or furnished upon request to a representative of the body awarding the contract, the Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards of the Department of Industrial Relations.”

Labor Code §1776 (g) states: “The contractor shall have 10 days in which to comply subsequent to receipt of written notice specifying in what respects the contractor must comply with this section. In the event that the contractor fails to comply within the 10-day period, he or she shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit twenty-five dollars (\$25) for each calendar day, or portions thereof, for each worker, until strict compliance is effectuated.”

Please correct and supply the data requested in the attachments and submit on approved forms to: LACDPW, Labor Compliance Officer.

If you have any questions, contact me at (661)253-3603.

Respectfully,

Ron Beal
Labor Compliance Officer

Enc. (2)

LACDPW

Suggested Single Project Labor Compliance Review and Enforcement Report Form

[Appendix C following 8 CCR §16434]

Awarding Body: _____

Project Name: _____

Name of Approved Labor Compliance Program: _____

Bid Advertisement Date: _____

Acceptance Date: _____

Notice of Completion Recordation Date: _____

Summary of Labor Compliance Activities

1. Contract Documents Containing Prevailing Wage Requirements (Identify)

2. Prejob Conference(s) -- Attach list(s) of attendees and dates

3. Notification to Project Workers of Labor Compliance Program's Contact Person.

(Explain

Manner of Notification for each project work site.)

4. Certified Payroll Record Review

a. CPRs Received From:

Contractor/Subcontractor

For weeks ending ("w/e") through w/e

_____	_____
_____	_____
_____	_____
_____	_____

b. Classifications identified in CPRs and applicable Prevailing Wage Determinations

<u>Classification</u>	<u>Determination No.</u>
_____	_____
_____	_____
_____	_____
_____	_____

5. Further investigation or audit due to CPR review, information or complaint from worker or other interested person, or other reason:

a. Independent Confirmation of CPR Data

<u>Contractor/Subcontractor</u>	<u>Worker Interviews (Yes/No)</u>	<u>Reconciled CPRs with Pay- checks or Stubs (Yes/No)</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

b. Employer Payments (Health & Welfare, Pension, Vacation/Holiday) Confirmation

<u>Contractor/Subcontractor</u>	<u>Recipients of Employer Payments</u>	<u>Written confirmation Obtained (Yes/No)</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

c. Contributions to California Apprenticeship Council or Other Approved Apprenticeship Program

<u>Contractor/Subcontractor</u>	<u>Recipients of Contributions</u>	<u>Written confirmation Obtained (Yes/No)</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

d. Additional Wage Payments or Training Fund Contributions Resulting from Review of CPRs

<u>Contractor/Subcontractor</u>	<u>Additional amounts Paid to Workers</u>	<u>Additional Training Fund</u>	<u>Expla- nation</u>
_____	_____	_____	*
_____	_____	_____	*
_____	_____	_____	*
_____	_____	_____	*

* Use separate page(s) for explanation

6. Complaints Received Alleging Noncompliance with Prevailing Wage Requirements.

<u>Name of Complainant</u>	<u>Date Received</u>	<u>Resolution or Current Status</u>
_____	_____	*
_____	_____	*
_____	_____	*
_____	_____	*

*Use separate page(s) to explain resolution or current

status

7. Requests for Approval of Forfeiture to Labor Commissioner

<u>Contractor/Subcontractor</u>	<u>Date of Request</u>	
_____	_____	_____
_____	_____	_____
_____	_____	_____

8. Litigation Pending Under Labor Code Section 1742

<u>Contractor/Subcontractor</u>	<u>DIR Case Number</u>
_____	_____
_____	_____
_____	_____

9. (Check one): _____ Final report this project _____ Annual report this project

PREVAILING WAGE HEARING REGULATIONS

**CALIFORNIA CODE OF REGULATIONS
TITLE 8, CHAPTER 8, SUBCHAPTER 6
(SECTIONS 17201 through 17270)**

**AVAILABLE ON THE DIR WEBSITE OR UPON REQUEST FROM
LACDPW**

REGULATIONS GOVERNING
CERTIFIED PAYROLL RECORDS and
LABOR COMPLIANCE PROGRAMS

CALIFORNIA CODE OF REGULATIONS

TITLE 8, CHAPTER 8, SUBCHAPTER 3, Article 6,
and SUBCHAPTER 4
(as amended effective January 21, 2009)
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Subchapter 3. Payment of Prevailing Wages upon Public Works

Article 6. Certified Payroll Records: Requests, Content, and Cost

§ 16400. Request for Payroll Records.

(a) Requests may be made by any person for certified copies of payroll records. Requests shall be made to any of the following:

- (1) the body awarding the contract, or
- (2) any office of the Division of Labor Standards Enforcement, or the Division of Apprenticeship Standards.

(b) Requests for certified copies of payroll records pursuant to Section 1776 of the Labor Code may be made by any person. However, any such request shall be in writing and contain at least the following information:

- (1) The body awarding the contract;
- (2) The contract number and/or description;
- (3) The particular job location if more than one;
- (4) The name of the contractor;
- (5) The regular business address, if known.

NOTE: Requests for records of more than one contractor or subcontractor must list the information regarding that contractor individually, even if all requests pertain to the same particular public works project. Blanket requests covering an entire public works project will not be accepted; unless contractor and subcontractor responsibilities regarding the project are not clearly defined.

(c) Acknowledgment of Request. The public entity receiving a request for payroll records shall acknowledge receipt of such, and indicate the cost of providing the payroll records based on an estimate by the contractor, subcontractor or public entity. The acknowledgment of the receipt of said request for payroll records may be accomplished by the public entity's furnishing a copy of its written correspondence requesting certified copies of the payroll records sent to the specific contractor pursuant to Section 16400(d) below, to the person who requested said records.

(d) Request to Contractor. The request for copies of payroll records by the requesting public entity shall be in any form and/or method which will assure and evidence receipt thereof. The request shall include the following:

- (1) Specify the records to be provided and the form upon which the information is to be provided;
- (2) Conspicuous notice of the following:
 - (A) that the person certifying the copies of the payroll records is, if not the contractor, considered as an agent acting on behalf of the contractor; and
 - (B) that failure to provide certified copies of the records to the requesting public entity within 10 working days of the receipt of the request will subject the contractor to a penalty of twenty-five (\$25.00) dollars per calendar day or portion thereof for each worker until strict compliance is effectuated;
- (3) Cost of preparation as provided in Section 16402; and
- (4) Provide for inspection.

(e) Inspection of Payroll Records. Inspection of the original payroll records at the office of the contractor(s) pursuant to subdivision (b) of Section 1776 of the Labor Code shall be limited to the public entities upon reasonable written or oral notice.

NOTE: Authority cited: Sections 54, 1773.5 and 1776, Labor Code. Reference: Sections 1773.5 and 1776, Labor Code.

§16401. Reporting of Payroll Requests.

(a) Reporting Format. The format for reporting of payroll records requested pursuant to Labor Code Section 1776 shall be on a form provided by the public entity. Copies of the forms may be procured at any office of the Division of Labor Standards Enforcement (DLSE) throughout the state and/or:

Division of Labor Statistics & Research
P.O. Box 420603
San Francisco, CA 94101
ATTENTION: Prevailing Wage Unit

Acceptance of any other format shall be conditioned upon the requirement that the alternate format contain all of the information required pursuant to Labor Code Section 1776. If, however, the contractor does not comply with the provisions of Labor Code Section 1776, the Labor Commissioner may require the use of DIR's suggested format, "Public Works Payroll Reporting Form" (Form A-1-131).

(b) Words of Certification. The form of certification shall be as follows: I, _____ (Name-print) the undersigned, am _____ (position in business) with the authority to act for and on behalf of _____, (name of business and/or contractor) certify under penalty of perjury that the records or copies thereof submitted and consisting of _____ (description, no. of pages) are the originals or true, full and correct copies of the originals which depict the payroll record(s) of the actual disbursements by way of cash, check, or whatever form to the individual or individuals named.
Date: _____ Signature: _____

A public entity may require a stricter and/or more extensive form of certification.

NOTE: Authority cited: Sections 54 and 1773.5, Labor Code. Reference: Section 1776, Labor Code.

§16402. Cost.

The cost of preparation to each contractor, subcontractor, or public entity when the request was made shall be provided in advance by the person seeking the payroll record. Such cost shall be \$1 for the first page of the payroll record and 25 cents for each page thereafter, plus \$10 to the contractor or subcontractor for handling costs. Payment in the form of cash, check or certified money order shall be made prior to release of the documents to cover the actual costs of preparation.

NOTE: Authority cited: Section 1776, Labor Code. Reference: Section 1776(h), Labor Code.

§16403. Privacy Considerations.

(a) Records received from the employing contractor shall be kept on file in the office or entity that processed the request for at least 6 months following completion and acceptance of the project. Thereafter, they may be destroyed unless administrative, judicial or other pending litigation, including arbitration, mediation or other methods of dispute resolution, are in process. Copies on file shall not be obliterated in the manner prescribed in subdivision (b) below;

(b) copies provided to the public upon written request shall be marked, obliterated or provided in such a manner that the name, address and Social Security number, and other private information pertaining to each employee cannot be identified. All other information including identification of the contractor shall not be obliterated;

(c) the public entity may affirm or deny that a person(s) was or is employed on a public works contract (by a specific contractor) when asked, so long as the entity requires such information of an identifying nature which will reasonably preclude release of private or confidential information.

NOTE: Authority cited: Sections 54, 1773.5 and 1776, Labor Code. Reference: Section 1776, Labor Code.

§ 16404. Use of Electronic Reporting Forms.

The certified payroll records required by Labor Code Section 1776 may be maintained and submitted electronically subject to all of the following conditions:

(a) The reports must contain all of the information required by Labor Code Section 1776, with the information organized in a manner that is similar or identical to how the information is reported on the Department of Industrial Relations' suggested "Public Works Payroll Reporting Form" (Form A-1-131);

(b) The reports shall be in a format and use software that is readily accessible and available to contractors, awarding bodies, Labor Compliance Programs, and the Department of Industrial Relations;

(c) Reports submitted to an awarding body, a Labor Compliance Program, the Division of Labor Standards Enforcement, or other entity within the Department of Industrial Relations must be either (1) in the form of a non-modifiable image or record that bears an electronic signature or includes a copy of any original certification made on paper, or alternatively (2) printed out and submitted on paper with an original signature;

(d) The requirements for redacting certain information shall be followed when certified payroll records are disclosed to the public pursuant to Labor Code Section 1776(e), whether the records are provided electronically or as hard copies; and

(e) No contractor or subcontractor shall be mandated to submit or receive electronic reports when it otherwise lacks the resources or capacity to do so, nor shall any contractor or subcontractor be required to purchase or use proprietary software that is not generally available to the public.

NOTE: Authority cited: Sections 54, 55, 1773.5, and 1776, Labor Code. Reference: Section 1776, Labor Code.

Subchapter 4. Awarding Body Labor Compliance Programs

Article 1. Operation of Labor Compliance Program and Contracts Subject to Labor Compliance Program Jurisdiction

§16421. Composition and Components of Labor Compliance Program.

(a) In accordance with Labor Code Section 1771.5(b), a Labor Compliance Program shall include, but not be limited to, the following requirements:

(1) The Call for Bids, Design-Build Request, and the contract or purchase order shall contain appropriate language concerning the requirements of Chapter 1 of Part 7 of Division 2 of the Labor Code.

(2) A pre-job conference shall be conducted before commencement of the work with contractors and subcontractors listed in the bid or who are required to be identified or prequalified in a Design-Build Contract. At the pre-job conference applicable federal and state labor law requirements shall be discussed, and copies of suggested reporting forms furnished. A checklist, showing which federal and state labor law requirements were discussed, shall be kept for each conference. A checklist in the format of Appendix A presumptively meets this requirement.

(3) A requirement that certified payroll records be kept by the contractor in accordance with Labor Code Section 1776 and furnished to the Labor Compliance Program at times designated in the contract, which shall be at least monthly, or within 10 days of any request by the Awarding Body. Use of the current version of DIR's "Public Works Payroll Reporting Form" (A-1-131) and Statement of Employer Payments (PW26) constitutes presumptive compliance with the requirement for certified payroll records kept in

accordance with Labor Code Section 1776, provided the forms are filled out accurately and completely. These suggested forms are available from the Department of Industrial Relations.

(4) A program for orderly review of payroll records and, if necessary, for audits to verify compliance with the requirements of Chapter 1 of Part 7 of Division 2 of the Labor Code.

(5) A prescribed routine for withholding penalties, forfeitures, and underpayment of wages for violations of the requirements of Chapter 1 of Part 7 of Division 2 of the Labor Code.

(6) All contracts to which prevailing wage requirements apply shall include a provision that contract payments shall not be made when payroll records are delinquent or inadequate.

(b) To the extent otherwise authorized by law, an Awarding Body or a Joint Powers Authority consisting of two or more Awarding Bodies may contract with a third party to initiate and enforce all or part of its Labor Compliance Program, *provided that* the third party has been approved by the Director to operate a Labor Compliance Program in accordance with these regulations. However, this subpart (b) shall not be construed as limiting an Awarding Body's or Joint Powers Authority's authority to contract for services for the operation of its own approved Labor Compliance Program, including services by persons licensed or certified by the State of California to practice one of the following recognized professions: law, architecture, engineering, or accounting.

(c) A private entity that is approved by the Director to operate a Labor Compliance Program and that operates a Labor Compliance Program pursuant to a contract with an Awarding Body or a Joint Powers Authority shall have the same rights and responsibilities as the Awarding Body or Joint Powers Authority in administering the Labor Compliance Program, including but not limited to (1) complying with the conflict of interest provisions of the Political Reform Act (commencing with Section 87100 of the Government Code) including disclosure requirements for Labor Compliance Program employees and consultants who participate in making governmental decisions, as defined under Title 2 California Code of Regulations Section 18701, and (2) maintaining, disclosing, or keeping confidential personnel information, payroll records, and other information and records in accordance with Labor Code Section 1776, the California Public Records Act, (Chapter 3.5 (commencing with Section 6250), Division 7, Title 1, Government Code) and the Information Practices Act of 1977, (Title 1.8 (commencing with Section 1798), Part 4, Division 3, Civil Code).

(d) Nothing in this section or these regulations shall be construed as limiting the responsibility and authority of an Awarding Body to take cognizance of prevailing wage violations under Section 1726 of the Labor Code and take any appropriate action pursuant to and in accordance with that responsibility and authority.

(e) It is the responsibility of a Labor Compliance Program to enforce prevailing wage requirements, consistent with the policy of the state as expressed in Labor Code Section 90.5(a). A Labor Compliance Program shall take reasonable, vigorous, and prompt action to (1) determine whether violations exist, and (2) enforce compliance, including through imposition of appropriate penalties and formal enforcement action, when violations are found. A Labor Compliance Program shall neither avoid use of its enforcement authority based on cost considerations nor shall it use that authority in an unreasonable manner to gain leverage over a contractor or subcontractor. Unreasonable use of enforcement authority includes, but is not necessarily limited to, prolonged or excessive withholdings of contract payments without making a determination that a violation has occurred.

(f) The failure of an Awarding Body or Labor Compliance Program to comply with any requirement imposed by this subchapter shall not of itself constitute a defense to the failure to pay prevailing wages or to comply with any other obligation imposed by Chapter 1 (commencing with Section 1720), Part 7, Division 2 of the Labor Code.

NOTE: Authority cited: Section 1773.5, Labor Code. Reference: Sections 1798 – 1798.78, Civil Code; Sections 6250 – 6276.48, 6500 - 6533 and 87100 - 87500, Government Code; Sections 90.5, 1726, 1771.5(b), 1771.7, 1771.8, 1771.9, and 1776, Labor Code.

Appendix A

Suggested Checklist of Labor Law Requirements to Review at Pre-job Conference, Section 16421, with suggested Certification by subcontractor.

The federal and state labor law requirements applicable to the contract are composed of but not limited to the following items:

- (1) The contractor's duty to pay prevailing wages under Labor Code Section 1770 et seq., should the project exceed the exemption amounts;
- (2) The contractor's duty to employ registered apprentices on the public works project under Labor Code Section 1777.5;
- (3) The penalties for failure to pay prevailing wages (for non-exempt projects) and employ apprentices including forfeitures and debarment under Labor Code Sections 1775 and 1777.7;
- (4) The requirement to keep and submit copies upon request of certified payroll records under Labor Code Section 1776, and penalties for failure to do so under Labor Code Section 1776(g);
- (5) The prohibition against employment discrimination under Labor Code Section 1777.6; the Government Code, and Title VII of the Civil Rights Act of 1964;
- (6) The prohibition against accepting or extracting kickback from employee wages under Labor Code Section 1778;
- (7) The prohibition against accepting fees for registering any person for public work under Labor Code Section 1779; or for filling work orders on public works under Labor Code Section 1780;
- (8) The requirement to list all subcontractors under Public Contracts Code Section 4104;
- (9) The requirement to be properly licensed and to require all subcontractors to be properly licensed and the penalty for employing workers while unlicensed under Labor Code Section 1021 and under the California Contractors License Law, found at Business and Professions Code Section 7000 et seq;
- (10) The prohibition against unfair competition under Business and Professions Code Sections 17200-17208;
- (11) The requirement that the contractor be properly insured for Workers Compensation under Labor Code Section 1861;
- (12) The requirement that the contractor abide by the Occupational, Safety and Health laws and regulations that apply to the particular construction project;
- (13) The federal prohibition against hiring undocumented workers, and the requirement to secure proof of eligibility/citizenship from all workers.
- (14) The requirement to provide itemized wage statements to employees under Labor Code Section 226.

Certification:

I acknowledge that I have been informed and am aware of the foregoing requirements and that I am authorized to make this certification on behalf of [name of subcontractor].

Date

Name of person signing and company

§16422. Applicable Dates for Enforcement of Labor Compliance Programs.

(a) No contracts shall be subject to Labor Compliance Program jurisdiction nor shall the limited exemption from payment of prevailing wages pursuant to Labor Code Section 1771.5(a) apply to any contract of an Awarding Body unless and until the Labor Compliance Program has been approved by the Director pursuant to this subchapter.

(b) Contracts for which the Date of Notice or the Call for Bids is subsequent to the date of approval of a Labor Compliance Program are subject to Labor Code Section 1771.5. In the case of a contract for which there is no Call for Bids, the applicable date shall be the date of the award of the contract.

(c) Revocation of approval of a Labor Compliance Program by the Director shall not affect the limited exemption from payment of prevailing wages provided by Labor Code Section 1771.5(a) if the date of such revocation is subsequent to the Date of Notice or Call for Bids or, in the case of a contract for which there is no Call for Bids, subsequent to the date of the award of the contract.

(d) If the Director revokes approval of an awarding body's Labor Compliance Program that was approved pursuant to section 16425 below, the Director shall give notice to the Awarding Body specifying enforcement responsibilities, including with respect to cases pending hearing, as of the date of revocation.

(e) An Awarding Body may voluntarily terminate its Labor Compliance Program. With respect to each contract pending on the date of termination, the Awarding Body shall:

(1) Notify the Director of its intention and the effective date of the termination;

(2) Notify the contractor(s) and the Labor Commissioner of the identity of the agent who will carry out the compliance enforcement obligations of Labor Code Section 1771.5 on the remaining contracts; and

(3) Specify the fund into which penalties or forfeitures withheld from any contract payments shall be deposited.

(f) The Labor Commissioner may, in writing, agree to assume enforcement obligations on pending contracts of an Awarding Body which has voluntarily terminated its Labor Compliance Program. In such case, penalties and forfeitures shall be deposited in the general fund of the state.

(g) Upon receipt of a notice of revocation, a Labor Compliance Program that was approved pursuant to section 16426 below shall (1) enter into no new contracts to provide labor compliance program services for the purpose of meeting an awarding body's statutory obligation to have a labor compliance program that contains or meets the requirements of Labor Code Section 1771.5; (2) provide immediate written notice to all awarding bodies for which the Program has an existing contract to provide labor compliance program services that the Program has received a revocation notice; and (3) provide all reasonable assistance to those awarding bodies in transferring labor compliance program responsibilities to another approved Program in order to avoid any forfeiture of funds by those awarding bodies and any forfeiture of rights by workers on the projects for which the Program had monitoring and enforcement responsibilities.

NOTE: Authority cited: Section 1773.5, Labor Code. Reference: Sections 1771.5 and 1771.6, Labor Code.

§16423. Approved Labor Compliance Program Required by Statute.

(a) Whenever an Awarding Body is required by statute to enforce or contract to enforce a Labor Compliance Program that contains or meets the requirements of Labor Code section 1771.5, the Awarding Body must have its own program that has been approved by the Director pursuant to section 16425 below, unless it fully contracts out its responsibilities and decision-making authority to a third party program that has been approved by the Director pursuant to section 16426 below.

(b) The governing board of any Awarding Body that is required to enforce a Labor Compliance Program under subpart (a) above shall make a written finding that the Awarding Body has

(1) established its own Labor Compliance Program in accordance with the requirements of Labor Code Section 1771.5(b) and this subchapter; or

(2) has contracted with a third party that has been approved by the Director to operate a Labor Compliance Program in accordance with the requirements of Labor Code Section 1771.5(b) and this subchapter.

Copies of the finding required by this subpart (b) together with (A) notice of whether or not the Awarding Body intends to initiate and enforce its Labor Compliance Program for all public works projects in which the Awarding Body participates, and (B) notice of any contract or agreement with a third party to operate a Labor Compliance Program shall be provided promptly to the Director and prior to certifying to any other entity that the Awarding Body has complied with the statutory requirement to have a Labor Compliance Program.

(c) For purposes of these regulations, an approved program refers to the entity that has applied for and received approval by the Director based on a consideration of the factors in sections 16425, 16426, or 16427 below, and not to that entity's manual or methodology for conducting labor compliance enforcement.

(d) Unless otherwise required by statute, an Awarding Body is not required to have separate Labor Compliance Programs, and a third party Labor Compliance Program is not required to have separate approvals from the Director for different types of projects or funding sources, provided that (1) the Awarding Body has provided all notices required by subpart (b) above, (2) the Labor Compliance Program has timely filed all reports required by this subchapter, and (3) the Director has not otherwise limited the approved scope of operation for the Labor Compliance Program.

(e) The limited exemption from payment of prevailing wages provided by Labor Code Section 1771.5(a) shall *not* apply unless the Awarding Body elects to initiate and enforces a Labor Compliance Program for every public works project under the authority of the Awarding Body.

(f) A list of statutes that require Awarding Bodies to have a Labor Compliance Program as a condition of project authorization, project funding, or use of specified contracting authority shall be maintained on the Department of Industrial Relations' website.

Authority cited: Section 1773.5, Labor Code. Reference: Section 1771.5, Labor Code.

Article 2. Approval and Revocation of Approval of Labor Compliance Programs by Director

§16424. Application for Approval.

An application for Approval of an Awarding Body's Labor Compliance Program or for Approval of a Third Party Labor Compliance Program shall include the information specified either in section 16425(a) or in Section 16426(a) respectively, and shall be sent to the following address:

Office of the Director
Department of Industrial Relations
455 Golden Gate Avenue, 10th Floor
San Francisco, CA 94102

Attention: Executive Assistant to the Director

Suggested application forms are available on the Department of Industrial Relations' website.

NOTE: Authority cited: Section 1773.5, Labor Code. Reference: Section 1771.5, Labor Code.

§16425. Approval of Awarding Body's Labor Compliance Program.

(a) An Awarding Body seeking approval of its own Labor Compliance Program shall submit evidence of its capacity and ability to operate an effective Labor Compliance Program consistent with applicable legal requirements, based on the following factors:

(1) Experience and training of the Awarding Body's personnel on public works labor compliance issues,

including private sector experience on behalf of unions or contractors or on a joint labor-management committee established pursuant to the federal Labor Management Cooperation Act of 1978 (section 175a of Title 29 of the United States Code) and participation in any public works enforcement training provided by the Division of Labor Standards Enforcement;

(2) The average number of public works contracts the Awarding Body annually administers;

(3) Whether the Labor Compliance Program is a joint or cooperative venture among Awarding Bodies, and how the resources and expanded responsibilities of the Labor Compliance Program compare to the Awarding Bodies involved;

(4) The Awarding Body's record of taking cognizance of Labor Code violations and of withholding in the preceding five years;

(5) The availability of competent legal support for the Labor Compliance Program;

(6) The availability and quality of a manual outlining the responsibilities and procedures of the Labor Compliance Program to the Awarding Body; and

(7) The method by which the Awarding Body will transmit notice to the Labor Commissioner of violations which may lead to debarment under Labor Code Section 1777.1.

(b) The Director shall notify the Awarding Body within 60 days of receipt of the request for approval that approval is granted and the effective date of approval, or that the request is incomplete and of the materials necessary to complete the request or that the request is disapproved for other reasons.

(c) The Director may grant approval on an interim or temporary basis and may impose specific restrictions on a Program's approval based on factors limiting its capacity and ability to operate an effective Labor Compliance Program or conflict of interest concerns, subject to reasonable conditions for removing an interim or temporary designation or other specified restrictions.

(d) The Director will maintain a list of all approved Labor Compliance Programs, including programs approved on an interim, temporary or restricted basis, for distribution to interested parties upon request.

(e) An Awarding Body that intends to operate a Labor Compliance Program on behalf of other Awarding Bodies or Joint Powers Authorities must obtain approval pursuant to section 16426 below.

(f) A Labor Compliance Program with an initial approval or extended initial approval that is set to expire on or after January 30, 2009, shall be entitled to convert to approved status without a prescribed expiration date and subject to revocation only in accordance with section 16428 below, upon providing satisfactory evidence to the Director of all of the following:

(1) the program has submitted timely, accurate, and complete annual reports in accordance with section 16431 below;

(2) the program continues to employ personnel with experience and training on public works labor compliance issues;

(3) competent legal support remains available to the program;

(4) the program's manual of policies and procedures has been updated to accurately reflect any amendments to the public works laws and regulations (including the laws and regulations governing Labor Compliance Programs) between the time of the program's approval and the effective date of this subpart (f); and

(5) the program is in compliance with any specific conditions placed by the Director on its approval, and there is no written decision, order, or directive that requires the program either to cease or limit its operations as of a specified date.

NOTE: Authority cited: Section 1773.5, Labor Code. Reference: Sections 1771.5 and 1777.1, Labor Code; Section 175a, Title 29 United States Code.

§16426. Approval of Third Party Labor Compliance Program.

(a) Any entity seeking approval to operate a Labor Compliance Program pursuant to a contract with one or more Awarding Bodies or Joint Powers Authorities shall submit evidence of its capacity and ability to operate an effective Labor Compliance Program consistent with applicable legal requirements, based on the following factors:

(1) Experience and training of the entity's personnel on public works labor compliance issues, including private sector experience on behalf of unions or contractors or on a joint labor-management committee established pursuant to the federal Labor Management Cooperation Act of 1978 (section 175a of Title 29 of the United States Code) and participation in any public works enforcement training provided by the Division of Labor Standards Enforcement;

(2) The geographical area in which the entity intends to operate its Labor Compliance Program and the identity of the Awarding Bodies and Joint Powers Authorities, if any, with whom the entity intends to contract for operation of a Labor Compliance Program;

(3) Whether the entity shares personnel, management, ownership or other close affiliation with (A) any contractor or subcontractor that within the preceding five years has been awarded a public works contract within the geographical area with any Awarding Body or Joint Powers Authority identified in subpart (2) above, (B) any person or entity who has been the surety on such a contract, (C) any joint labor-management committee established pursuant to the Federal Labor Management Cooperation Act of 1978 (section 175a of Title 29 of the United States Code), or (D) any person or entity who has represented workers employed in the same or similar classifications as those employed for such a contract and who has been engaged in (i) an organizational campaign under the National Labor Relations Act with contractors competing for such contracts or (ii) a jurisdictional dispute with another collective bargaining representative of workers utilized for such contracts;

(4) The record of any contractor, subcontractor, surety, or worker representative referred to in subpart (3) above with respect to compliance and enforcement or aiding in the compliance and enforcement of prevailing wage requirements under the Labor Code in the preceding five years;

(5) The availability of competent legal support for the Labor Compliance Program and whether the persons or firms providing that support also represent any contractor, subcontractor, surety, or worker representative referred to in subpart (3) above;

(6) The availability and quality of a manual outlining the responsibilities and procedures of the Labor Compliance Program to any Awarding Body or Joint Powers Authority with which it contracts;

(7) The method by which the Labor Compliance Program will transmit notice to the Labor Commissioner of violations which may lead to debarment under Labor Code Section 1777.1;

(8) Awareness of the rights and responsibilities imposed on the Labor Compliance Program as an agent of a governmental agency under section 16421(c) above and the existence of procedures designed to inform personnel of the Labor Compliance Program of these rights and responsibilities and to insure the compliance of employees and consultants who participate in making governmental decisions with conflict of interest reporting requirements, such as through participation in internet-based or live training programs provided by the Fair Political Practices Commission; and

(9) The identity by job title and number of program employees who will participate in making governmental decisions within the meaning of Title 2 California Code of Regulations sections 18700 through 18702.4 or any successor regulations, and whether required statements of economic interest (FPPC Form 700) will be filed with local awarding bodies with which the program contracts, with the Director, or with some other specified entity.

(b) The Director shall notify the applicant within 60 days of receipt of the request for approval that approval is granted and the effective date of approval, or that the request is incomplete and of the materials necessary to complete the request or that the request is disapproved for other reasons.

(c) The Director may grant approval on an interim or temporary basis and may impose specific restrictions on a Program's approval based on factors limiting its capacity and ability to operate an effective Labor

Compliance Program or conflict of interest concerns, subject to reasonable conditions for removing an interim or temporary designation or other specified restrictions.

(d) The Director will maintain a list of all approved third party Labor Compliance Programs, including programs approved on an interim, temporary or restricted basis, for distribution to interested parties upon request.

(e) When the Director has approved a third party entity to operate a Labor Compliance Program pursuant to Article 2 of this subchapter, that approval shall extend to any Awarding Body or Joint Powers Authority that has contracted with the approved entity for operation of its Labor Compliance Program, subject to the following:

(1) No such approval shall apply unless the Awarding Body or Joint Powers Authority has first provided written notice to the Director of its contractual relationship with the approved entity together with such further information as the Director may reasonably require to document that relationship, as well as notice of whether or not the Awarding Body intends to initiate and enforce its Labor Compliance Program for all public works projects in which the Awarding Body participates;

(2) The parties shall provide immediate written notice to the Director and the Labor Commissioner upon the termination or proposed termination of such contractual relationship; and

(3) For good cause, the Director may disallow or withdraw approval for the operation of a Labor Compliance Program as to any particular Awarding Body or Joint Powers Authority, whether or not the third party entity remains approved to operate a Labor Compliance Program on behalf of one or more other Awarding Bodies or Joint Powers Authorities.

(f) A third party Labor Compliance Program with an initial approval or extended initial approval that is set to expire on or after January 30, 2009, shall be entitled to convert to approved status without a prescribed expiration date and subject to revocation only in accordance with section 16428 below, upon providing satisfactory evidence to the Director of all of the following:

(1) the program has submitted timely, accurate, and complete annual reports in accordance with section 16431 below;

(2) the program continues to employ personnel with experience and training on public works labor compliance issues;

(3) competent legal support remains available to the program;

(4) the program's manual of policies and procedures has been updated to accurately reflect any amendments to the public works laws and regulations (including the laws and regulations governing Labor Compliance Programs) between the time of the program's approval and the effective date of this subpart (f); and

(5) the program is in compliance with any specific conditions placed by the Director on its approval, and there is no written decision, order, or directive that requires the program to cease or limit its operations as of a specified date.

NOTE: Authority cited: Section 1773.5, Labor Code. Reference: Sections 1771.5 and 1777.1, Labor Code; Section 175a, Title 29 United States Code.

§16427. Extended Authority.

(a) An Awarding Body or third party entity which has operated a Labor Compliance Program with active enforcement responsibilities for at least three consecutive years after initial approval may apply to the Director for extended authority. The applicant bears the burden of producing evidence that it meets the criteria in subpart (b) below.

(b) The Director may grant extended authority to an applicant that has satisfactorily demonstrated its understanding of and ability to monitor compliance with the requirements of the Labor Code and these

regulations, and that has filed timely, complete, and accurate reports as required by these regulations.

(c) The Director shall notify the applicant within 90 days of the receipt of a request for extended authority that the request is granted and the effective date of and extent of any extended authority that is granted, or that the request is denied and the reason for the denial.

(d) A Labor Compliance Program with extended authority may enter into an agreement with the Labor Commissioner providing for different procedures for securing approval of forfeitures than those set forth in Section 16437 below.

(e) Any Labor Compliance Program with final approval on the effective date of the amendments changing “final approval” to “extended authority” shall automatically be converted to the status of having “extended authority.” The Director will maintain a list of Labor Compliance Programs with extended authority, for distribution to interested parties upon request. The Director may agree to alternative reporting formats under Section 16431 of these regulations for such programs, and shall maintain a list of interested parties who wish notification of alternative reporting formats before adoption.

NOTE: Authority cited: Section 1773.5, Labor Code. Reference: Sections 1771.5, Labor Code.

§16428. Revocation of Approval.

(a) The Director may revoke approval of a Labor Compliance Program after giving due notice, conducting a hearing if appropriate, and finding cause for revocation. Cause for revocation of approval includes, but is not limited to:

(1) Failure of the Labor Compliance Program to monitor compliance with the requirements of the Labor Code and these regulations or to take appropriate enforcement action for violations of which it becomes or should have become cognizant;

(2) Failure of the Labor Compliance Program to file timely, complete, and accurate reports to the Director as required by section 16431 or elsewhere in these regulations.;

(3) A pattern of failures in hearings conducted pursuant to Labor Code Section 1742(b) either (A) to establish violations under Labor Code Sections 1775(a) and 1776(g) for which contract payments have been withheld or (B) to comply with the requirements imposed on enforcing agencies or their representatives in the prevailing wage hearing regulations at Sections 17201 – 17270 of Title 8 of the California Code of Regulations;

(4) Failure to comply with applicable laws and reporting requirements pertaining to conflicts of interest and the handling of personnel and payroll records and information;

(5) Failure to comply with requirements imposed on Labor Compliance Programs by statute or these regulations or with any terms, conditions, or restrictions imposed by the Director on the Labor Compliance Program’s approval.

(b) Interested parties may request the Director to revoke approval of a Labor Compliance Program. A request for revocation shall include evidence of failure of the Labor Compliance Program to monitor compliance with the requirements of the Labor Code and these regulations or to take enforcement action after becoming cognizant of a violation of the Labor Code or these regulations. A request for revocation shall also include any other relevant evidence.

(1) Approval of a Labor Compliance Program may be revoked by the Director based on a request by an interested party after a proceeding conducted as provided in subpart (a) above. A copy of the request for revocation shall be provided to the Awarding Body as part of the notice required under subpart (a) above.

(2) As part of a proceeding for revocation of approval based on a request by an interested party, the Director may require the Labor Compliance Program to furnish a supplemental report for the period between the ending date of the last annual report filed by the Labor Compliance Program pursuant to section 16431 and the date of notice by the Director, and containing the information listed in subpart (a) of said section 16431.

(3) Revocation of approval of a Labor Compliance Program based on a request by an interested party is solely within the discretion of the Director. The duty to operate a Labor Compliance Program in accordance with the requirements of this subchapter runs solely to the Director and not to any worker, contractor, or interested party. The sole remedy for failure to comply with this duty is revocation of approval by the Director.

(c) Upon determining that the request for revocation will be denied without hearing, the Director shall give notice of the decision and of the reasons therefore by mail to the Labor Compliance Program, any Awarding Body or Joint Powers Authority that has contracted with the Labor Compliance Program pursuant to section 16421(b) above, and any interested party that requested revocation.

(d) Upon determining that a hearing is necessary, the parties will be notified and a hearing on cause for revocation of Labor Compliance Program approval will be held in accordance with the procedures for notice and hearing proceedings set forth in section 16304 of Title 8 of the California Code of Regulations.

(e) The Labor Commissioner is authorized to conduct investigations into whether a Labor Compliance Program has operated in accordance with the requirements of this subchapter and to participate in the role of prosecutor in any revocation proceedings. The Director shall make all final determinations.

(f) Nothing in this section shall be construed as (1) requiring the Director to extend any approval granted on a temporary or interim basis pursuant to sections 16425 or 16426 above or (2) restricting the Director's authority to impose conditions or restrictions on a Labor Compliance Program's approval in lieu of revocation.

NOTE: Authority cited: Sections 55, 1773.5, Labor Code. Reference: Sections 55, 1742(b), 1771.5, 1775(a), and 1776(g), Labor Code.

§16429. Notice of Labor Compliance Program Approval.

(a) Notice of approval of an Awarding Body's Labor Compliance Program shall be given in the Call for Bids and in the contract or purchase order and shall also be posted at the job site. If more than one job site exists or where such posting would endanger public safety, the notice may be posted in the manner prescribed by section 16100(b) of Title 8 of the California Code of Regulations.

(b) Notice of an approved Labor Compliance Program shall contain, at the minimum, the effective date of the Director's approval, a statement whether the limited exemption from prevailing wages pursuant to Labor Code Section 1771.5(a) applies to contracts under the jurisdiction of the Labor Compliance Program, a telephone number to call for inquiries, questions, or assistance with regard to the Labor Compliance Program, and the name of the agent or office administering the Labor Compliance Program.

NOTE: Authority cited: Section 1773.5, Labor Code. Reference: Section 1771.5, Labor Code.

Article 3. Reports and Audits

§16430. Filing of Statements of Economic Interest (FPPC Form 700) by Designated Employees and Consultants of Labor Compliance Program.

(a) An Awarding Body that operates either its own labor compliance program or that contracts with a third party to operate all or part of its labor compliance program shall determine and designate those employees and consultants of the program who participate in making governmental decisions for the Awarding Body within the meaning of Title 2, California Code of Regulations, sections 18700 – 18702.4. Those designated employees and consultants shall be required to file Statements of Economic Interest (FPPC Form 700) and to comply with other applicable requirements of the Political Reform Act (commencing with Section 87100 of the Government Code) in connection with work performed on behalf of the Awarding Body.

(b) Designated employees and consultants who operate or are employed by a third party labor compliance program shall file their Statements of Economic Interest (FPPC Form 700) with the filing officer of each Awarding Body with which the third party program contracts, unless the Department of Industrial Relations or the Fair Political Practices Commission specifies a different or alternative filing location.

Authority cited: Section 1773.5, Labor Code. Reference: Sections 87100, et seq., Government Code; Section 1771.5, Labor Code.

§16431. Annual Report.

(a) The Labor Compliance Program shall submit to the Director an annual report on its operation within 60 days after the close of its annual reporting period, as defined in subpart (e) (d) below. The annual report shall be made on the appropriate form [LCP-AR1, LCP-AR2, or LCP-AR3], for the type of Labor Compliance Program that is submitting the report, unless the Director has agreed to a different reporting format for a Program that has been granted extended authority under section 16427 above. A third party Labor Compliance Program that contracted with more than one Awarding Body or Joint Powers Authority during the annual reporting period shall separately report on Labor Code Section 1771.5(b) enforcement activities for each Awarding Body or Joint Powers Authority covered by the report.

(b) The Annual Report for a person or entity operating a third party Labor Compliance Program shall also include (1) a certification of compliance with conflict of interest disclosure requirements by employees and consultants who participate in making governmental decisions, as defined under Title 2, California Code of Regulations, section 18701, and (2) a current statement disclosing the information required under section 16426(a)(2), (3) and (5) above.

(c) Information in the Annual Report shall be reported in sufficient detail to afford a basis for evaluating the scope and level of enforcement activity of the Labor Compliance Program. An annual report shall also include such additional information as the Labor Compliance Program may be required to report as a condition of its approval.

(d) For purposes of this section, the annual reporting period shall be deemed to commence on the first of the month in which a Labor Compliance Program is first granted approval pursuant to Section 16425 or 16426 above and shall conclude on the last day of the month immediately preceding that date in the following year. A Labor Compliance Program shall use the same reporting period in succeeding years; provided that for good cause the Director may authorize a change in the reporting period.

NOTE: Authority cited: Section 1773.5, Labor Code. Reference: Sections 1771.5, 1771.6 and 1777.1, Labor Code.

*** Annual Report Forms LCP-AR1 [awarding body program enforcing on some but not all projects], LCP-AR2 [awarding body program enforcing on all projects], and LCP-AR3 [third-party program] are available on the Department of Industrial Relations' website at <http://www.dir.ca.gov/lcp.asp>.*

§16432. Investigation Methods for Labor Compliance Program – Definitions and Minimum Requirements, Including Review, Confirmation and Audits of Payroll Records; On-Site Visits; and Early Resolution of Audits.

(a) The primary function of the Labor Compliance Program is to ensure that public works contractors comply with the prevailing wage requirements found in the Public Works Chapter of the Labor Code. This regulation is intended to establish minimum requirements which all Labor Compliance Programs shall meet or exceed in carrying out that function. Definitions found throughout this regulation are intended to provide Labor Compliance Programs and representatives of the Department of Industrial Relations and the Division of Labor Standards Enforcement with common terminology as they each perform their respective roles in prevailing wage enforcement in furtherance of the Labor Code provisions establishing Labor

Compliance Programs. This regulation is also intended to confirm that the proactive investigation methods, as described in detail herein, only comprise the minimum obligations required of Labor Compliance Programs to satisfy their duty to the Director to operate a Labor Compliance Program as specified in sections 16428 and 16434.

(b) Payroll records furnished by contractors and subcontractors in accordance with section 16421(a)(3) above, and in a format prescribed at section 16401 of Title 8 of the California Code of Regulations, shall be reviewed by the Labor Compliance Program as promptly as practicable after receipt thereof, but in no event more than 30 days after such receipt. "Review" for this purpose shall be defined as inspection of the records furnished to determine if (1) all appropriate data elements identified in Labor Code Section 1776(a) have been reported; (2) certification forms have been completed and signed in compliance with Labor Code Section 1776(b); and (3) the correct prevailing wage rates have been reported as paid for each classification of labor listed thereon, with confirmation of payment in the manner and to the extent described in subpart (c) below.

(c) "Confirmation" of payroll records furnished by contractors and subcontractors shall be defined as an independent corroboration of reported prevailing wage payments. Confirmation may be accomplished through worker interviews, examination of paychecks or paycheck stubs, direct confirmation of payments from third party recipients of "Employer Payments" (as defined at section 16000 of Title 8 of the California Code of Regulations), or any other reasonable method of corroboration. For each month in which a contractor or subcontractor reports having workers employed on the public work, confirmation of furnished payroll records shall be undertaken randomly for at least one worker for at least one weekly period within that month. Confirmation shall also be undertaken whenever complaints from workers or other interested persons or other circumstances or information reasonably suggest to the Labor Compliance Program that payroll records furnished by a contractor or subcontractor are inaccurate.

(d) Representatives of the Labor Compliance Program shall conduct in-person inspections at the site or sites at which the contract for public work is being performed ("On-Site Visits"). On-Site Visits may be undertaken randomly or as deemed necessary by the Labor Compliance Program, but shall be undertaken during each week that workers are present at sites at which the contract for public work is being performed. All On-Site Visits shall include visual inspection of (1) the copy of the determination(s) of the Director of Industrial Relations of the prevailing wage rate of per diem wages required to be posted at each job site in compliance with Labor Code Section 1773.2, and (2) the Notice of Labor Compliance Program Approval required to be posted at the job site in accordance with section 16429 above, listing a telephone number to call for inquiries, questions, or assistance with regard to the Labor Compliance Program. On-Site Visits may include other activities deemed necessary by the Labor Compliance Program to independently corroborate prevailing wage payments reported on payroll records furnished by contractors and subcontractors.

(e) An Audit, as defined herein, shall be prepared by the Labor Compliance Program whenever the Labor Compliance Program has determined that there has been a violation of the Public Works Chapter of the Labor Code resulting in the underpayment of wages. An "Audit" for this purpose shall be defined as a written summary reflecting prevailing wage deficiencies for each underpaid worker, and including any penalties to be assessed under Labor Code Sections 1775 and 1813, as determined by the Labor Compliance Program after consideration of the best information available as to actual hours worked, amounts paid, and classifications of workers employed in connection with the public work. Such available information may include, but is not limited to, worker interviews, complaints from workers or other interested persons, all time cards, cancelled checks, cash receipts, trust fund forms, books, documents, schedules, forms, reports, receipts or other evidences which reflect job assignments, work schedules by days and hours, and the disbursement by way of cash, check, or in whatever form or manner, of funds to a person(s) by job classification and/or skill pursuant to a public works project. An Audit is sufficiently detailed when it enables the Labor Commissioner, if requested to determine the amount of forfeiture under section 16437, to draw reasonable conclusions as to compliance with the requirements of the Public Works Chapter of the Labor Code, and to enable accurate computation of underpayments of wages to workers and of applicable penalties and forfeitures. An Audit using the forms in Appendix B, when accompanied by a brief narrative identifying the Bid Advertisement Date of the contract for public work and summarizing the nature of the violation and the basis upon which the determination of underpayment was made, presumptively demonstrates sufficiency. Records supporting an Audit shall be maintained by the

Labor Compliance Program to satisfy its burden of coming forward with evidence in administrative review proceedings under Labor Code Section 1742 and the Prevailing Wage Hearing Regulations found at sections 17201-17270 of Title 8 of the California Code of Regulations.

(f) After the Labor Compliance Program has determined that violations of the prevailing wage laws have resulted in the underpayment of wages and an audit has been prepared, notification shall be provided to the contractor and affected subcontractor of an opportunity to resolve the wage deficiency prior to a determination of the amount of forfeiture by the Labor Commissioner pursuant to these regulations. The contractor and affected subcontractor shall be provided at least 10 days following such notification to submit exculpatory information consistent with the "good faith mistake" factors set forth in Labor Code Section 1775(a)(2)(A)(i) and (ii). If, based upon the contractor's submission, the Labor Compliance Program reasonably concludes that the failure to pay the correct wages was a good faith mistake, and has no knowledge that the contractor and affected subcontractor have a prior record of failing to meet their prevailing wage obligations, the Labor Compliance Program shall not be required to request the Labor Commissioner for a determination of the amount of penalties to be assessed under Labor Code Section 1775 if the underpayment of wages to workers is promptly corrected and proof of such payment is submitted to the Labor Compliance Program. For each instance in which a wage deficiency is resolved in accordance with this regulation, the Labor Compliance Program shall maintain a written record of the failure of the contractor or subcontractor to meet its prevailing wage obligation. The record shall identify the public works project, the contractor or affected subcontractor involved, and the gross amount of wages paid to workers to resolve the prevailing wage deficiency; and the record shall also include a copy of the Audit prepared pursuant to subpart (e) above along with any exculpatory information submitted to the Labor Compliance Program by the affected contractor or subcontractor.

NOTE: Authority cited: Section 1773.5, Labor Code. Reference: Sections 1742, 1771.5, 1773.1, 1773.2, 1775, 1776, and 1813, Labor Code.

Appendix B

Audit Record Worksheet Forms [DLSE forms available separately]

- Public Works Investigation Worksheet
- Public Works Audit Worksheet
- Prevailing Wage Determination Summary

Article 4. Limited Exemption from the Requirement to Pay Prevailing Wages

§16433. Limited Exemption.

1)

(a) As provided in Labor Code Section 1771.5(a), an Awarding Body which operates an approved Labor Compliance Program for all public works projects in which the Awarding Body participates shall not require payment of the general rate of per diem wages or the general rate of per diem wages for holiday and overtime work for any public works project of \$25,000 or less when the project is for construction or installation work, or of \$15,000 or less when the project is for alteration, demolition, repair, or maintenance work.

(b) A project for construction, installation, alteration, demolition, repair, or maintenance work shall be identified as such in the call for bids, and in the contract or purchase order.

(c) If the amount of a contract subject to subdivision (a) is changed and, as a result, exceeds the applicable limit under which the payment of the general rate of per diem wages is not required, workers

employed on the contract after the amount due the contractor has reached the applicable limit shall be paid the general rate of per diem wages for regular, holiday or overtime work, as the case may be.

NOTE: Authority cited: Section 1773.5, Labor Code. Reference: Sections 1720(a)(1) and 1771.5, Labor Code.

Article 5. Enforcement

2)

§16434. Duties of Labor Compliance Program.

(a) A Labor Compliance Program shall have a duty to the Director to enforce the requirements of Chapter 1 of Part 7 of Division 2 of the Labor Code and these regulations in a manner consistent with the practice of the Labor Commissioner. It is the practice of the Labor Commissioner to refer to the Director's ongoing advisory service of web-posted public works coverage determinations as a source of information and guidance in making enforcement decisions. It is also the practice of the Labor Commissioner to be represented by an attorney in prevailing wage hearings conducted pursuant to Labor Code Section 1742(b) and sections 17201 – 17270 of Title 8 of the California Code of Regulations.

(b) Upon receipt of a written complaint alleging that a contractor or subcontractor has failed to pay prevailing wages as required by the Labor Code, the Labor Compliance Program shall do all of the following:

- (1) Within 15 days after receipt of the complaint, send a written acknowledgment to the complaining party that the complaint has been received and identifying the name, address, and telephone number of the investigator assigned to the complaint;
- (2) Within 15 days after receipt of the complaint, provide the affected contractor with the notice required under Labor Code section 1775(c) if the complaint is against a subcontractor;
- (3) Notify the complaining party in writing of the resolution of the complaint within ten days after the complaint has been resolved by the Labor Compliance Program;
- (4) Notify the complaining party in writing at least once every 30 days of the status of a complaint that has not been resolved by the Labor Compliance Program; and
- (5) Notify the complaining party in writing at least once every 90 days of the status of a complaint that has been resolved by the Labor Compliance Program but remains under review or in litigation before another entity.

(c) The duties of a Labor Compliance Program with respect to apprenticeship standards are as follows:

(1) Either the Awarding Body or the Labor Compliance Program acting on its behalf shall (A) inform contractors and subcontractors bidding public works about apprenticeship requirements, (B) send copies of awards and notices of discrepancies to the Division of Apprenticeship Standards as required under Section 1773.3 of the Labor Code, and (C) refer complaints and promptly report suspected violations of apprenticeship requirements to the Division of Apprenticeship Standards.

(2) The Labor Compliance Program shall be responsible for enforcing prevailing wage pay requirements for apprentices consistent with the practice of the Labor Commissioner, including (A) that any contributions required pursuant to Labor Code Section 1777.5(m) are paid to the appropriate entity, (B) that apprentices are paid no less than the prevailing apprentice rate, (C) that workers listed and paid as apprentices on the certified payroll records are duly registered as apprentices with the Division of Apprenticeship Standards, and (D) requiring that the regular prevailing wage rate be paid (i) to any worker who is not a duly registered apprentice and (ii) for all hours in excess of the maximum ratio permitted under Labor Code Section 1777.5(g), as determined at the conclusion of the employing contractor or subcontractor's work on the public works contract.

(d) For each public work project subject to a Labor Compliance Program's enforcement of prevailing wage requirements, a separate, written summary of labor compliance activities and relevant facts pertaining to that particular project shall be maintained. That summary shall demonstrate that reasonable and sufficient efforts have been made to enforce prevailing wage requirements consistent with the practice of the Labor Commissioner. Appendix C following this section provides a suggested format for tracking and monitoring enforcement activities. Compliance records for a project shall be retained until the later of (1) at least one year after the acceptance of the public work or five years after the cessation of all labor on a public work that has not been accepted, or (2) one year after a final decision or judgment in any litigation under Labor Code Section 1742. For purposes of this section, a written summary or report includes information maintained electronically, provided that the summary or report can be printed out in hard copy form or is in an electronic format that (1) can be transmitted by e-mail or compact disk and (2) would be acceptable for the filing of documents in a federal or state court of record within this state.

(e) The Labor Commissioner may provide, sponsor, or endorse training on how to enforce prevailing wage requirements, including but not necessarily limited to the subjects of (1) ascertaining prevailing wage requirements and rates from the Division of Labor Statistics and Research, (2) monitoring and investigation under section 16432 above, (3) enforcement responsibilities under this Section and Sections 16435 – 16439 below, and (4) procedural requirements and responsibilities as an enforcing agency under Labor Code Sections 1741 – 1743 and 1771.6 and sections 17201 – 17270 of Title 8 of the California Code of Regulations.

NOTE: Authority cited: Section 1773.5, Labor Code. Reference: Sections 1741 – 1743, 1771.5, 1771.6, 1773.3, and 1777.5 through 1777.7, Labor Code.

Appendix C

Suggested Single Project Labor Compliance Review and Enforcement Report Form

Awarding Body: _____
Project Name: _____
Name of Approved Labor Compliance Program: _____
Bid Advertisement Date: _____
Acceptance Date: _____
Notice of Completion Recordation Date: _____

Summary of Labor Compliance Activities

1. Contract Documents Containing Prevailing Wage Requirements (Identify)

2. Pre-job Conference(s) -- Attach list(s) of attendees and dates

3. Notification to Project Workers of Labor Compliance Program's Contact Person. (Explain Manner of Notification for each project work site.)

4. Certified Payroll Record Review

a. CPR's Received From:

<u>Contractor/Subcontractor</u>	<u>For weeks ending ("w/e") through w/e</u>
_____	_____
_____	_____
_____	_____

b. Classifications identified in CPR's and applicable Prevailing Wage Determinations

<u>Classification</u>	<u>Determination No.</u>
_____	_____
_____	_____
_____	_____

5. Further investigation or audit due to CPR review, information or complaint from worker or other interested person, or other reason:

a. Independent Confirmation of CPR Data

<u>Contractor/Subcontractor</u>	<u>Worker Interviews (Yes/No)</u>	<u>Reconciled CPR's with Pay- checks or Stubs (Yes/No)</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

b. Employer Payments (Health & Welfare, Pension, Vacation/Holiday) Confirmation

<u>Contractor/Subcontractor</u>	<u>Recipients of Employer Payments</u>	<u>Written confirmation Obtained (Yes/No)</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

c. Contributions to California Apprenticeship Council or Other Approved Apprenticeship Program

<u>Contractor/Subcontractor</u>	<u>Recipients of Contributions</u>	<u>Written confirmation Obtained (Yes/No)</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

d. Additional Wage Payments or Training Fund Contributions Resulting from Review of CPR's

<u>Contractor/Subcontractor</u>	<u>Additional amounts Paid to Workers</u>	<u>Additional Training Fund Contribution</u>	<u>Explanation</u>
_____	_____	_____	*
_____	_____	_____	*
_____	_____	_____	*

* Use separate page(s) for explanation

6. Complaints Received Alleging Noncompliance with Prevailing Wage Requirements.

<u>Name of Complainant</u>	<u>Date Received</u>	<u>Resolution or Current Status</u>
_____	_____	*
_____	_____	*
_____	_____	*

*Use separate page(s) to explain resolution or current status

7. Requests for Approval of Forfeiture to Labor Commissioner

<u>Contractor/Subcontractor</u>	<u>Date of Request</u>	<u>Approved/Modified/Denied</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

8. Litigation Pending Under Labor Code Section 1742

<u>Contractor/Subcontractor</u>	<u>DIR Case Number</u>
_____	_____
_____	_____
_____	_____

9. (Check one): _____ Final report this project _____ Annual report this project

Authorized Representative for Labor Compliance Program

§16435. Withholding Contract Payments When Payroll Records are Delinquent or Inadequate.

(a) "Withhold" means to cease payments by the Awarding Body, or others who pay on its behalf, or agents, to the general contractor. Where the violation is by a subcontractor, the general contractor shall be notified of the nature of the violation and reference made to its rights under Labor Code Section 1729.

(b) "Contracts." Except as otherwise provided by agreement, only contracts under a single master contract, including a Design-Build contract, or contracts entered into as stages of a single project, may be the subject of withholding.

(c) "Delinquent payroll records" means those not submitted on the date set in the contract.

(d) "Inadequate payroll records" are any one of the following:

(1) A record lacking any of the information required by Labor Code Section 1776;

(2) A record which contains all of the required information but is not certified, or is certified by someone who is not an agent of the contractor or subcontractor;

(3) A record remaining uncorrected for one payroll period, after the Labor Compliance Program has given the contractor or subcontractor notice of inaccuracies detected by audit or record review. However, prompt correction will stop any duty to withhold if such inaccuracies do not amount to one (1) percent of the entire Certified Weekly Payroll in dollar value and do not affect more than half the persons listed as

workers employed on that Certified Weekly Payroll, as defined in Labor Code Section 1776 and section 16401 of Title 8 of the California Code of Regulations.

(e) The withholding of contract payments when payroll records are delinquent or inadequate is required by Labor Code Section 1771.5(b)(5), and it does not require the prior approval of the Labor Commissioner. The Awarding Body shall only withhold those payments due or estimated to be due to the contractor or subcontractor whose payroll records are delinquent or inadequate, plus any additional amount that the Labor Compliance Program has reasonable cause to believe may be needed to cover a back wage and penalty assessment against the contractor or subcontractor whose payroll records are delinquent or inadequate; *provided that* a contractor shall be required in turn to cease all payments to a subcontractor whose payroll records are delinquent or inadequate until the Labor Compliance Program provides notice that the subcontractor has cured the delinquency or deficiency.

(f) When contract payments are withheld under this section, the Labor Compliance Program shall provide the contractor and subcontractor, if applicable, with immediate written notice that includes all of the following: (1) a statement that payments are being withheld due to delinquent or inadequate payroll records, and that identifies what records are missing or states why records that have been submitted are deemed inadequate; (2) specifies the amount being withheld; and (3) informs the contractor or subcontractor of the right to request an expedited hearing to review the withholding of contract payments under Labor Code Section 1742, limited to the issue of whether the records are delinquent or inadequate or the Labor Compliance Program has exceeded its authority under this section.

(g) No contract payments shall be withheld solely on the basis of delinquent or inadequate payroll records after the required records have been produced.

(h) In addition to withholding contract payments based on delinquent or inadequate payroll records, penalties shall be assessed under Labor Code Section 1776(g) for failure to timely comply with a written request for certified payroll records. The assessment of penalties under Labor Code Section 1776(g) does require the prior approval of the Labor Commissioner under section 16436 of these regulations.

NOTE: Authority cited: section 1773.5, Labor Code. Reference: sections 1729, 1771.5, and 1776, Labor Code.

3)

§16435.5 Withholding Contract Payments When, After Investigation, It Is Established That Underpayment or Other Violation Has Occurred.

(a) "Withhold" and "contracts" have the same meaning set forth in Sections 16435(a) and 16435(b) of these regulations.

(b) Where the violation is by a subcontractor, the general contractor shall be notified of the nature of the violation and reference made to its rights under Labor Code Section 1729.

(c) "Amount equal to the underpayment" is the total of the following determined by payroll review, audit, or admission of contractor or subcontractor:

(1) The difference between amounts paid workers and the correct General Prevailing Rate of Per Diem Wages, as defined in Labor Code Section 1773, and determined to be the prevailing rate due workers in such craft, classification or trade in which they were employed and the amounts paid;

(2) The difference between amounts paid on behalf of workers and the correct amounts of Employer Payments, as defined in Labor Code Section 1773.1 and determined to be part of the prevailing rate costs of contractors due for employment of workers in such craft, classification or trade in which they were employed and the amounts paid;

(3) Estimated amounts of "illegal taking of wages";

(4) Amounts of apprenticeship training contributions paid to neither the program sponsor's training trust nor the California Apprenticeship Council;

(5) Estimated penalties under Labor Code Sections 1775, 1776, and 1813.

(d) The withholding of contract payments when, after investigation, it is established that underpayment or other violations have occurred requires the prior approval of the Labor Commissioner under Sections 16436 and 16437 of these regulations.

NOTE: Authority cited: section 1773.5, Labor Code. Reference: sections 1729, 1771.5, 1773, 1773.1, 1775, 1776, 1777.5, 1778, 1813 and 1815, Labor Code.

§16436. Forfeitures Requiring Approval by the Labor Commissioner.

(a) For purposes of this section and section 16437 below, “forfeitures” means the amount of wages, penalties, and forfeitures assessed by the Labor Compliance Program and proposed to be withheld pursuant to Labor Code Section 1771.6(a), and includes the following: (1) the difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate by the contractor or subcontractor; and (2) penalties assessed under Labor Code Sections 1775, 1776 and 1813.

(b) If the aggregate amount of forfeitures assessed as to a contractor or subcontractor is less than \$1000.00, the forfeitures shall be deemed approved by the Labor Commissioner upon service and the Labor Commissioner’s receipt of copies of the following: (1) the Notice of Withholding of Contract Payments authorized by Labor Code Section 1771.6(a); (2) an Audit as defined in section 16432(e) of these regulations, and (3) a brief narrative identifying the Bid Advertisement Date of the contract for public work and summarizing the nature of the violation, the basis of the underpayment, and the factors considered in determining the assessment of penalties, if any, under Labor Code Section 1775.

(c) For all other forfeitures, approval by the Labor Commissioner shall be requested and obtained in accordance with section 16437 below.

NOTE: Authority cited: sections 1773.5, Labor Code. Reference: sections 1771.6, 1775, 1776, and 1813, Labor Code.

§16437. Determination of Amount of Forfeiture by the Labor Commissioner.

(a) Where the Labor Compliance Program requests a determination of the amount of forfeiture, the request shall include a file or report to the Labor Commissioner which contains at least the information specified in subparts (1) through (9) below. Appendix D is a suggested format for a Request for Approval of Forfeiture under this section.

(1) Whether the public work has been accepted by the awarding body and whether a valid notice of completion has been filed, the dates if any when those events occurred, and the amount of funds being held in retention by the Awarding Body;

(2) Any other deadline which if missed would impede collection;

(3) Evidence of violation, in narrative form;

(4) Evidence of violation obtained under section 16432 of these regulations and a copy of the Audit prepared in accordance with section 16432(e) setting forth the amounts of unpaid wages and applicable penalties;

(5) Evidence that before the forfeiture was sent to the Labor Commissioner (A) the contractor and subcontractor were given the opportunity to explain why there was no violation, or that any violation was caused by good faith mistake and promptly corrected when brought to the contractor or subcontractor’s attention, and (B) the contractor and subcontractor either did not do so or failed to convince the Labor Compliance Program of its position;

(6) Where the Labor Compliance Program seeks not only wages but also a penalty as part of the forfeiture, and the contractor or subcontractor has unsuccessfully contended that the cause of violation was a good faith mistake that was promptly corrected when brought to the contractor or subcontractor's attention, a short statement should accompany the proposal for a forfeiture, with a recommended penalty amount pursuant to Labor Code Section 1775(a);

(7) Where the Labor Compliance Program seeks only wages or a penalty less than \$50 per day as part of the forfeiture because the contractor or subcontractor has successfully contended that the cause of the violation was a good faith mistake that was promptly corrected when brought to the contractor or subcontractor's attention, the file should include the evidence as to the contractor or subcontractor's knowledge of his or her obligation, including the program's communication to the contractor or subcontractor of the obligation in the bid invitations, at the pre-job conference agenda and records, and any other notice given as part of the contracting process. With the file should be a statement, similar to that described in (6), and recommended penalty amounts, pursuant to Labor Code Section 1775(a);

(8) The previous record of the contractor and subcontractor in meeting their prevailing wage obligations; and

(9) Whether the Labor Compliance Program has been granted approval on only an interim or temporary basis under sections 16425 or 16426 above or whether it has been granted extended approval under section 16427 above.

(b) The file or report shall be served on the Labor Commissioner as soon as practicable after the violation has been discovered, and not less than 30 days before the final payment, but in no event not less than 30 days before the expiration of the limitations period set forth in Labor Code Section 1741.

(c) A copy of the recommended forfeiture and the file or report shall be served on the contractor and subcontractor at the same time as it is sent to the Labor Commissioner. The Labor Compliance Program may exclude from the documents served on the contractor and subcontractor copies of documents secured from the contractor or subcontractor during an audit, investigation, or meeting if those are clearly referenced in the file or report.

(d) The Labor Commissioner shall affirm, reject, or modify the forfeiture in whole or in part as to the wages and penalties due.

(e) The Labor Commissioner's determination of the forfeiture is effective on one of the two following dates:

(1) For all programs other than those having extended authority under section 16427 of these regulations, on the date the Labor Commissioner serves by first class mail, on the Labor Compliance Program, on the Awarding Body if different, on the contractor and on the subcontractor, if any, an endorsed copy of the proposed forfeiture, or a newly drafted forfeiture statement which sets out the amount of forfeiture approved. Service on the contractor or subcontractor is effective if made on the last address supplied by the contractor or subcontractor in the record. The Labor Commissioner's approval, modification or disapproval of the proposed forfeiture shall be served within 30 days of receipt of the proposed forfeiture.

(2) For programs with extended authority under section 16427 above, approval is effective 20 days after the requested forfeitures are served upon the Labor Commissioner, unless the Labor Commissioner serves a notice upon the parties, within that time period, that this forfeiture request is subject to further review. For such programs, a notice that approval will follow such a procedure will be included in the transmittal of the forfeiture request to the contractor. If the Labor Commissioner notifies the parties of a decision to undertake further review, the Labor Commissioner's final approval, modification or disapproval of the proposed forfeiture shall be served within 30 days of the date of notice of further review.

NOTE: Authority cited: Section 1773.5, Labor Code. Reference: Sections 1771.5 and 1775, Labor Code.

Appendix D

Suggested Format for Request for Approval of Forfeiture [separately form]

§16438. Deposits of Penalties and Forfeitures Withheld.

(a) Where the involvement of the Labor Commissioner had been limited to a determination of the actual amount of penalty, forfeiture or underpayment of wages, and the matter has been resolved without litigation by or against the Labor Commissioner, the Labor Compliance Program shall deposit penalties and forfeitures with the Awarding Body.

(b) Where collection of fines, penalties or forfeitures results from administrative proceedings or court action to which the Labor Commissioner and Awarding Body or its Labor Compliance Program are both parties, the fines, penalties or forfeitures shall be divided between the general funds of the state and the Awarding Body, as the Hearing Officer or court may decide.

(c) All penalties recovered in administrative proceedings or court action brought by or against the Labor Commissioner and to which the Awarding Body or its Labor Compliance Program is not a party, shall be deposited in the general fund of the state.

(d) All wages and benefits which belong to an employee and are withheld or collected from a contractor or subcontractor, either by withholding or as a result of administrative proceedings or any court action, and which have not been paid to the employee or irrevocably committed on the employee's behalf to a benefit fund, shall be deposited with the Labor Commissioner, who shall handle such wages and benefits in accordance with Labor Code Section 96.7.

NOTE: Authority cited: Section 1773.5, Labor Code. Reference: Sections 96.7, 1771.6 and 1775, Labor Code.

§16439. Request for Review of a Labor Compliance Program Enforcement Action; Settlement Authority.

(a) A contractor or subcontractor may request a settlement meeting pursuant to Labor Code Section 1742.1(b) and may request review of a Labor Compliance Program enforcement action in accordance with Labor Code Sections 1771.6(b) and 1742 and the regulations found at sections 17201-17270 of Title 8 of the California Code of Regulations. The Labor Compliance Program shall have the rights and responsibilities of the Enforcing Agency (as defined in section 17202(f) of Title 8 of the California Code of Regulations), in responding to such a request for review, including but not limited to the obligations to serve notices, transmit the Request for Review to the hearing office, and provide an opportunity to review evidence in a timely manner, to participate through counsel in all hearing proceedings, and to meet the burden of establishing prima facie support for the Notice of Withholding of Contract Payments.

(b) If a contractor or subcontractor seeks review of a Labor Compliance Program enforcement action, the Labor Commissioner may intervene to represent the Awarding Body, or to enforce relevant provisions of the Labor Code consistent with the practice of the Labor Commissioner, or both.

(c) Except in cases where the Labor Commissioner has intervened pursuant to subpart (b) above, the Labor Compliance Program shall have the authority to prosecute, settle, or seek the dismissal of any Notice of Withholding of Contract Payments issued pursuant to Labor Code Section 1771.6 and any review proceeding under Labor Code Section 1742, without any further need for approval by the Labor Commissioner. Whenever a Labor Compliance Program settles in whole or in part or seeks and obtains the dismissal of a Notice of Withholding of Contract Payments or a review proceeding under Labor Code Section 1742, the Labor Compliance Program shall document the reasons for the settlement or request for dismissal and shall make that documentation available to the Labor Commissioner upon request.

NOTE: Authority cited: Sections 54, 55, 1742(b), and 1773.5, Labor Code. Reference: Sections 1742, 1742.1(b), and 1771.6, Labor

APPENDIX A- DEFINITIONS

1. "Amount equal to the underpayment" is the total of the following determined by payroll review, investigation, audit, or admission of the contractor or subcontractor:
 - a. The difference between the amounts paid to workers and the correct General Prevailing Wage Rate of Per Diem Wages as defined in Labor Code Section 1773, and determined to be the prevailing rate due workers in such craft, classification or trade in which they were employed and the amounts paid;
 - b. The difference between the amounts paid on behalf of workers and the correct amounts of employer payments, as defined in Labor Code Section 1773.1 and determined to be part of the prevailing rate costs of contractors due for employment of workers in such craft, classification or trade in which they were employed and the amounts paid;
 - c. Estimated amounts of "illegal taking of wages;" and
 - d. Amounts of apprenticeship training contributions paid to neither the program sponsor's training trust nor the California Apprenticeship Council;
 - e. Estimated penalties under Labor Code Sections 1775, 1776, and 1813.
 - f. The difference between the amounts paid to workers and the correct General Prevailing The difference between amounts paid workers and the correct General Prevailing Rate of Per Diem Wages, as defined in Labor Code Section 1773, and determined to be the prevailing rate due workers in such craft, classification or trade in which they were employed and the amounts paid; Wage Rate of Per Diem Wages as defined in Title 8, CCR Section 16000, *et seq.*;
 - g. The difference between amounts paid on behalf of workers and the correct amounts of Employer Payments, as defined in Labor Code Section 1773.1 and determined to be part of the prevailing rate costs of contractors due for employment of workers in such craft, classification or trade in which they were employed and the amounts paid; The difference between the amounts paid to workers and the correct amounts of employer payments, as defined in Title 8, CCR Section 16000, *et seq.* and determined to be part of the prevailing rate costs of contractors due for employment of workers in such craft, classification or trade in which they were employed and the amounts paid.
2. "Basic Payroll Records" means time cards, front and back copies of cancelled checks, cash receipts, trust fund forms, daily logs, employee sign-in sheets, accounting ledgers, tax forms and/or any other record maintained for the purposes of reporting payroll.
3. "Contracts," except as otherwise provided by agreement, means only contracts under a single master contract, or contracts entered into as stages of a single project which may be the subject of withholding pursuant to Labor Code Sections 1720, 1720.2, 1720.3, 1720.4, 1771, and 1771.5;
4. "Delinquent payroll records" means those not submitted on the basis set forth in the Awarding Body contract and the LCP;

5. "Electronic Reporting Forms" containing certified payroll records required by Labor Code Section 1776 means reports maintained and submitted electronically subject to all of the following conditions:
 - a. The reports must contain all of the information required by Labor Code Section 1776, with the information organized in a manner that is similar or identical to how the information is reported on the Department of Industrial Relations' suggested "Public Works Payroll Reporting Form" (Form A-1-131);
 - b. The reports shall be in a format and use software that is readily accessible and available to contractors, awarding bodies, Labor Compliance Programs, and the Department of Industrial Relations;
 - c. Reports submitted to an awarding body, a Labor Compliance Program, the Division of Labor Standards Enforcement, or other entity within the Department of Industrial Relations must be either (1) in the form of a non-modifiable image or record that bears an electronic signature or includes a copy of any original certification made on paper, or alternatively (2) printed out and submitted on paper with an original signature;
 - d. The requirements for redacting certain information shall be followed when certified payroll records are disclosed to the public pursuant to Labor Code Section 1776(e), whether the records are provided electronically or as hard copies.
6. "Failing to pay the correct rate of prevailing wages" means those public works violations which the Labor Commissioner has exclusive authority to approve before they are recoverable by the LCP, and which are appealable by the contractor in court or before the Director of the Department of Industrial Relations under Labor Code Sections 1742 and 1742.1 pursuant to the California Code of Regulations Title 8, Chapter 8, Subchapter 8 (Sections 17201 through 17270). Regardless of what is defined as prevailing "wages" in contract terms, noncompliance with the following are considered failures to pay prevailing wages:
 - a. Nonpayment of items defined as "Employer Payments" and "General Prevailing Rate of Per Diem Wages" in Title 8, CCR Section 16000 and Labor Code Section 1771.
 - b. Payroll records required by Labor Code Section 1776;
 - c. Labor Code Section 1777.5 but only insofar as the failure consists of paying apprentice wages lower than the journey level rate to a worker who is not an apprentice as defined in Labor Code Section 3077, working under an apprentice agreement in a recognized program;
 - d. Labor Code Section 1778, Kickbacks;
 - e. Labor Code Section 1779, Fee for Registration;
 - f. Labor Code Sections 1813, 1815, and Title 8, CCR Section 16200(a)(3)(F) overtime for work over eight (8) hours in any one (1) day or forty (40) hours in any one (1) week (Monday through Friday). All work performed on Saturday, Sunday, and/or a holiday shall be paid pursuant to the prevailing wage determination.
6. "Forfeitures" means the amount of wages, penalties, and forfeitures assessed by the Labor Compliance Program and proposed to be withheld pursuant to Labor Code section 1771.6(a), and includes the following: (1) the difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate by the contractor or subcontractor; and (2) penalties assessed under Labor Code Sections 1775, 1776. and 1813.

7. "Forfeitures" means the amount of wages, penalties, and forfeitures assessed by the LCP and proposed to be withheld pursuant to Labor Code Section 1771.6(a), and includes the following:
 - a. The difference between the prevailing wage rates and the amount paid each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate by the contractor or subcontractor; and
 - b. Penalties assessed under Labor Code Sections 1775, 1776, 1813.
8. "Inadequate payroll records" are any one of the following:
 - a. A record lacking any of the information required by Labor Code Section 1776;
 - b. A record which contains all of the required information but is not certified, or is certified by someone who is not an agent of the contractor or subcontractor;
 - c. A record remaining uncorrected for one (1) payroll period, after the Awarding Body has given the contractor notice of inaccuracies detected by audit or record review. However, prompt correction will stop any duty to withhold if such inaccuracies do not amount to one percent (1%) of the entire certified weekly payroll in dollar value and do not affect more than half the persons listed as workers employed on that certified weekly payroll, as defined in Labor Code Section 1776 and section 16401 of Title 8 of the California Code of Regulations.
9. "Withhold" means to cease payments by the awarding body, or others who pay on its behalf, or agents, to the general contractor.